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Detail of "Fishing Party", Lolo Hotsprings. 1890s
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MONTANA INDEX OF ENVIRONMENTAL PERMITS

Fourteenth Edition
2004

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Keep in Mind . . .

This document summarizes portions of Montana law that deal with the use and development of the state's natural resources. It is not, however, a legal document and should not be relied on exclusively to determine legal responsibilities.

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INTRODUCTION

PERMIT INDEX

The *Montana Index of Environmental Permits* is prepared by the Environmental Quality Council staff to provide a complete list of the permits and licenses needed to conduct activities that may affect the state's environment. The permit index lists the permits required, the permitting agencies and the statutes and rules that regulate each permit.

The permit index is **not** a legal document. Anyone planning an activity should contact the administering agency for detailed information before beginning a project.

HOW TO USE THE PERMIT INDEX

Find the relevant activity through the index or table of contents.

On the appropriate page, the entry will look like this.

COMMERCIAL MEDICAL WASTE OR HAZARDOUS WASTE INCINERATORS

Permits for commercial incinerators are required under both the Montana Clean Air Act (see AIR QUALITY PERMITS, p. 32); and the Montana Solid Waste Management Act (see SOLID WASTE - HAZARDOUS WASTE, p. 135). The Board of Environmental Review also has the authority to adopt specific rules regulating medical waste incinerators and to establish additional permit requirements because of the potential health risks from associated substances. The definition of commercial medical waste incinerator does not include hospital or medical facilities that primarily incinerate medical waste generated onsite.

Statute: 75-2-231, MCA

Contact: DEPT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau

The text in the entry describes the permits and licenses that are required for the activity. ⇨

Listed below the text are the relevant statutes from the Montana Codes (MCA) and rules (Administrative Rules of Montana (ARMs)). ⇨

Finally, the entry list the appropriate agency to contact. ⇨

Next, if the activity is proposed in a specially designated area such as a conservation district or floodplain, check the land designation section located in the first 14 pages of the index. The land designation section is used primarily as a reference to complement information in the activity section.

It is important to note that if the action will affect any species or species habitat protected under the state or federal Endangered Species Acts, special regulations apply. See Nongame and Endangered Species, p. 86.

In addition, a project that may have an impact on the environment is subject to review under the provisions of the Montana Environmental Policy Act (p. 114).

THE STATE REGULATORY STRUCTURE

Montana state government is divided into three branches: legislative, executive and judicial. The laws governing the state are enacted by the Legislature, implemented by the Executive Branch and interpreted by the Judicial Branch.

The state's environmental programs are administered by agencies of the Executive Branch. Each agency is headed by a governor-appointed director who is responsible for the operation of the department. The department is composed of divisions, that are divided into bureaus, that may be further divided into sections.

The Executive Branch agencies administer programs established by statute (contained in the *Montana Code Annotated*) and rule (contained in the *Administrative Rules of Montana*). The principal agencies involved in the issuance or review of environmental permits are the Departments of Agriculture; Environmental Quality; Livestock; Natural Resources and Conservation; Transportation; Fish, Wildlife and Parks; and the Public Service Commission.

FEDERAL AND LOCAL GOVERNMENT PERMITS

Montana administers several federal environmental programs under agreement with the United States Environmental Protection Agency: air and water quality, solid and hazardous waste, and asbestos and pesticide regulation. Montana has also been certified by the U.S. Department of the Interior to administer the federal Surface Mining Control and Reclamation Act (SMCRA). Some federal programs are mentioned in the permit index, but it is important to check with the appropriate state agency to determine if any associated federal permits are required for an activity.

Local governments such as town councils, county commissioners or local health officials also administer permits.

GENERAL INFORMATION

The permit index is a starting point for finding information on environmental regulations for certain activities. It does not replace assistance from agency personnel who have the responsibility to help citizens comply with Montana's environmental laws. To avoid difficulties, contact the permitting agencies as soon as possible and integrate environmental regulations into your planning process early.

For answers to general permit questions, call the Governor's Office (444-3111), the Environmental Quality Council (444-3742), or the Citizen's Advocate Office (444-3468, 1-800-332-2272).

DIRECTORY OF PERMITS

LAND DESIGNATIONS

Lands with special designations have additional land use and activity restrictions.

AIRPORT AREAS

1. **Types of Activities Regulated**

Airports owned by a public entity or political subdivision are regulated by three main laws (see A-C below). Generally, the following considerations are important when building near a publicly owned, public use airport: safety of airport users, public safety, character of flying operations, noise levels, terrain, future development of the airport and Federal Aviation Administration regulations.

Privately owned, private use airports are not subject to the following regulations, but must submit a letter of notification for certain actions to the Federal Aviation Administration (FAA). The FAA prescribes the content and form of the letter.

A. Airport Influence Areas: Local governments that have airports must designate airport influence areas around the airport. The designation must be based on FAA rules and guidelines. An airport influence area may not extend more than 10,000 feet from the end of the runway nor may it exceed one mile in width. Within one year of designation, the local government must adopt and provide for the administration of rules restricting the height of structures and trees. A person altering the approved ground and/or airspace within the airport influence area must apply to the appropriate local government for a permit.

Statute: 67-4-101 *et seq.*, MCA

Contact: LOCAL GOVERNMENT
Zoning Board

B. Airport Hazard Regulation: Within two miles of a publicly owned, public use airport or landing field, no structure or tree located within a defined turning zone may have a height of more than one-seventh its distance from the nearest boundary of an airport. A person proposing to erect, establish or maintain any structure or grow any natural object that would exceed this height limit must apply to the appropriate level of government for a permit.

Statute: 67-5-101 *et seq.*, MCA

Contact: STATE AND LOCAL JURISDICTIONAL GOVERNMENT

C. Airport Zoning Act: State or local governments having authority over publicly owned, public use airports may adopt regulations dividing airport hazard areas (areas within two miles of airports) into zones, specifying land uses permitted within each zone and regulating the height of structures and trees. The controlling authority may enact a permitting system in which a variance may be granted if enforcement of the rules would cause unnecessary hardship, the proposed construction is not contrary to the public interest and the new structure does not present an immediate hazard to safe flying conditions.

Statute: Airport Zoning Act, 67-6-101 *et seq.*, MCA

Contact:: STATE AND LOCAL JURISDICTIONAL GOVERNMENT

CONSERVATION DISTRICTS

1. General Requirements

Lands located within a conservation district may be subject to land use regulations designed to conserve soil and water resources and prevent and control erosion. Copies of the land use regulations are available from the district. These regulations are adopted with voter approval through a referendum and are administered by the Conservation District supervisors. Once the referendum is enacted, the district supervisors may compel compliance through a petition to District Court. Variances awarded upon demonstration of great practical difficulties or unnecessary hardship are allowed.

State law requires a *310 permit* from a conservation district when a private, nongovernmental individual or entity proposes work in or near a stream on public or private land (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11).

Statute: 76-15-701 *et seq.*, MCA (land use regulations)
75-7-101 *et seq.*, MCA (stream preservation)

Contact: CONSERVATION DISTRICT or

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Conservation and Resource Development Division
Conservation Districts Bureau

CONSERVATION EASEMENTS

1. Types of Activities Regulated

A public body or qualified public organization may acquire title to or interest in real property for the purpose of preserving the land's natural, scientific, educational or aesthetic resources. By acquiring this interest or title, the holder establishes a conservation easement on the land whereby the landowner relinquishes to the holder of the easement the right to develop the land or alter its natural character. The terms of the easement may prohibit or limit construction, excavation, surface uses, etc. The existence of a conservation easement should appear on the deed to the property.

Statute: 76-6-201 *et seq.*, MCA
87-1-209, 241 and 242, MCA

Rule: ARM: 12.9.511 and 512

Contact: LOCAL GOVERNMENT
County Clerk and Recorder

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Field Services Division

FLOODPLAINS AND FLOODWAYS

1. Types of Activities Regulated

Artificial obstructions and nonconforming uses within a designated floodplain or floodway require a permit from the local governing body or from the Montana Department of Natural Resources and Conservation (DNRC) if local authorities have not adopted rules. Local governments may adopt land use regulations, including floodplain management regulations within sheetflood areas, that may restrict development. If local regulations are not adopted, the DNRC must adopt and enforce minimum standards.

Statute: 76-5-401 through 406, MCA (Floodplain and Floodway Management Act)

Rule: ARM 36.15.601-801

Contact: LOCAL GOVERNMENT (City or County)
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

2. Application Requirements

The application for a permit for obstructions or uses in a designated floodplain or floodway must be submitted to the local government or the DNRC and must contain maps, plans, profiles and specifications of the obstruction or use of the water course or drainway.

Statute: 76-5-404, MCA

3. Permitting Procedures

Permits for obstructions or uses in a designated floodplain or floodway must be approved or denied within a reasonable time, usually 60 days after the receipt of an application.

Statute: 76-5-405(2), MCA

Rule: ARM 36.15.216

4. Fees

An application fee, set by the local government, is required for a floodplain or floodway obstruction permit.

Statute: 76-5-405(3), MCA

Rule: ARM 36.15.204(3)(b)

5. Criteria

The following criteria must be considered by the local government in evaluating a permit application: danger to life and property by water that may be backed up or diverted by the obstruction or use; danger that the obstruction or use may be swept downstream and cause injury; alternative methods of construction or alteration of obstruction or use which will minimize the danger; the availability of alternate locations; permanence of the obstruction or use; anticipated development in the area; and other factors specified by law.

Statute: 76-5-406, MCA

Rule: ARM 36.15.216

HERITAGE SITES

ANTIQUITIES PERMITS

1. Types of Activities Regulated

Individuals or organizations proposing to excavate, remove or restore a heritage property or paleontological remains on state-owned land for scientific, educational or mitigation purposes must obtain an antiquities permit from the State Historic Preservation Officer. The preservation officer consults with the appropriate state land management agency in issuing a permit. Permits may not be granted unless the preservation officer is satisfied that the individuals carrying out the proposed work are qualified to guarantee proper excavation of those sites and objects.

Statute: 22-3-431 through 442, MCA (Montana Antiquities Act)

Rule: ARM 10.121.901-916

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office

2. Criteria

The heritage value of any historic or prehistoric site identified is determined by the National Register of Historic Places, Criteria for Evaluation.

3. Additional Information

Applicants for licenses or permits are encouraged to provide the permitting or licensing agency with specific information on the legal location of the proposed project, previous land use and land condition. This information assists the agency and the State Historic Preservation Office in determining whether a cultural resource inventory of the proposed area is needed.

HUMAN SKELETAL REMAINS AND BURIAL MATERIALS

1. Types of Activities Regulated

The state Burial Preservation Board must be petitioned for a permit for the removal and/or scientific analysis of human skeletal remains and burial material from any unmarked burial

site on state or private land. The Board may issue a permit for limited scientific study of remains and material if it determines that the analyses is scientifically justifiable. In Montana it is presumed that remains and material will be reburied rather than scientifically analyzed. The State Historic Preservation Office reviews and comments to the Board on all permit applications. The Preservation Office also maintains a burial registry and must be contacted in the event of an inadvertent discovery of unmarked human remains.

Statute: 22-3-801 through 811, MCA (Human Skeletal Burial Remains and Burial Site Protection Act)

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office
State Burial Preservation Board

2. Additional Information

For skeletal remains or funerary objects excavated before the passage of this act (Human Skeletal Burial Remains and Burial Site Protection Act, 1991), the Montana Repatriation Act provides a hearing process for the repatriation of culturally affiliated remains from unprotected burial sites currently in the possession or control of any state agency, museum or individual. The Act also requires agencies and museums to complete and provide a copy of an inventory of any remains or objects to the state Burial Preservation Board.

LAKESHORES

1. Types of Activities Regulated

If a local government has adopted lakeshore protection regulations, a permit is required for any work that will alter or diminish the course, current or cross-sectional area of a navigable lake or its shore. These activities include construction of channels or ditches; dredging of the lake bottom to remove muck, silt or weeds; ponding; filling; and constructing breakwaters or wharves and docks.

Statute: 75-7-201 through 217, MCA

Rule: As adopted by local governments

Contact: LOCAL GOVERNMENT
Planning Department

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

2. Application Requirements

Specific application requirements are prescribed in regulations adopted by the local government.

3. Permitting Procedures

A. Local Regulations: Contact the local government for specific procedures.

1) The local government must seek the recommendations of the local planning board.

2) The local government may provide a summary procedure to permit work it finds has a minimal or insignificant impact on a lakeshore.

3) The planning board must report its recommendations to the local government on whether the proposed work conforms to the criteria for issuance of a permit, and it may require the applicant to submit additional information prior to making its recommendations.

4) A variance from local regulations may be obtained if an impact statement is prepared and a public hearing held.

B. Time requirements:

Unless the applicant for a lakeshore work permit agrees to an extension, the government must grant or deny the permit within 90 days.

Statute: 75-7-207 and 211 through 213, MCA

4. Fees

Permit fees set by local governments must be commensurate with the cost of administering the permit application. See 75-7-210, MCA for more information.

5. Criteria

The following are minimum requirements and do not restrict a local government from adopting additional or more stringent regulations that may be authorized by other statutes.

The proposed work will not, during construction or its utilization:

1) materially diminish water quality;

2) materially diminish habitat for fish or wildlife;

3) interfere with navigation or other lawful recreation;

4) create a public nuisance; or

5) create a visual impact discordant with natural scenic values as determined by the local government when such values form the predominant elements of the landscape.

6. Additional Information

Landowners may petition the Montana Department of Natural Resources and Conservation to adopt regulations for a particular lake until the local government adopts the necessary regulations.

STATE LANDS

1. Types of Activities Regulated

Activities on state-owned land, including the beds of navigable waterways, generally require permits, leases or easements from the Montana Department of Natural Resources and Conservation (DNRC) and approval from the Board of Land Commissioners. See HERITAGE SITES, p. 5; CROPLAND AND GRAZING LEASES, pp. 19 and 22; TIMBER SALES, p. 57; GEOTHERMAL LEASES, p. 38; HYDROELECTRIC POWER DEVELOPMENT, p. 41; MINING, p. 107; GEOPHYSICAL EXPLORATION, p. 122; and OIL AND GAS, p. 123.

In addition, the Montana Department of Fish, Wildlife and Parks and other state agencies should be contacted for information regarding rules and procedures on lands owned or administered by those agencies.

2. Easements

The Board of Land Commissioners may grant easements on state trust lands and across navigable rivers of the state for the public uses identified in state statute. Applications for easements are submitted to the DNRC. Required elements of an application package, including survey plats, vary based on the requested use, but in all instances an application processing fee and completed application form is necessary. Additionally, compensation for the area of land encumbered by the easement is assessed and must be the full market value of the land, plus any diminution in the value of adjacent state lands.

The Board may also grant easements under the historic right-of-way law for uses such as private access roads, county roads and utility facilities that have been in place on state trust lands without legal easement. Applications for historic rights-of-way must be received by the DNRC by October 1, 2006.

Statute: 77-1-130 and 77-2-101 through 107, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

3. Exchange of Land

The Board of Land Commissioners is authorized to exchange state land for private land provided that the private land is of equal or greater value than the state land and approximately equal in area. The Board has a written policy and criteria for considering and processing land exchanges. Prior to the exchange, a public hearing must be held in the county containing the state land. Objections to the exchange may be made at the hearing.

4. Leases

State lands may be leased to any person over 18 years old, heads of families and to associations, partnerships and corporations. When the department receives an application to lease a tract, it will advertise for bids and accept the highest bid, unless the Board determines that the highest bid is not in the best interest of the trust beneficiaries. See *Types of Activities Regulated*, on the previous page, for references to specific types of leases.

Statute: Title 77, Chapters 1-6, MCA

Rule: ARM 36.2.1001 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

5. **Recreational Use License**

A recreational use license is required for a person 12 years of age or older for general recreational use of state trust lands. The license is issued for a 12 month period beginning March 1st and expiring the last day of February the following year.

Beginning March 1, 2004, pending agreement between the DNRC and the Montana Department of Fish, Wildlife and Parks, persons who obtain a wildlife conservation license will be authorized to use legally accessible state land for licensed hunting, fishing and trapping. All other general recreational activities, unless conducted in conjunction with licensed hunting, fishing and trapping, will still require persons to possess a recreational use license,

Special recreational use licenses, available only from DNRC offices, are required for organized or concentrated recreational activities, commercial activities such as outfitting, and other activities not included within the definition of general recreational use. See also HUNTING - FISHING - TRAPPING - WILD LANDS AND WILDLIFE PROTECTION, p. 63; and, PARKS AND RECREATION, p. 128.

Certain "categories" of state trust lands, such as lands leased for military sites, home sites and cabin sites, commercial developments and lands on which there are growing crops, are closed to all recreational activities. Lessees of state land can also request approval from the DNRC to temporarily, seasonally or permanently close state lands or restrict certain activities if damage has occurred or if access would interfere with agricultural or ranching activities. Additionally, the DNRC may close or impose restrictions on state lands for a number of reasons, including imminent threat to property and/or public safety or for other "emergency" situations.

The fee for a recreational use license is $10 for persons 18-59 years old; $5 for persons 12-17 years old and 60 years and older; and $20 for a family license.

Statute: 77-1-804, MCA

Rule: ARM 36.25.143 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

6. **Sales of Land**

The Board of Land Commissioners is authorized to sell state lands, with some restrictions, such as on certain minerals, in navigable waterways, etc. The 2003 Legislature passed legislation to initiate a land banking process, and the DNRC is presently promulgating rules. Land banking allows the sale of state land, with restrictions on what land and to whom it may be sold.

All sales of state lands are conducted by public auction held in the county in which the land is located. The current lessee of state land retains the right to match the high bid on their lease parcel.

Contact: BOARD OF LAND COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

Statute: 77-2-301 through 367, MCA

Rule: ARM 36.25.128-131

STREAM BEDS - STREAM BANKS - WETLANDS

1. **Types of Activities Regulated**

A. Private Projects: A private, nongovernmental individual or entity proposing to work in or near a stream on public or private land must apply for a 310 permit from the conservation districts' board of supervisors. Types of activities that may require a permit include the following: engineering operations for dams, dikes, ponds, ditches, fences and other construction; stream crossings; bank stabilization projects; irrigation diversions, headgates and pumpsite maintenance; and other activities that alter the condition of a stream or river. The applicant should contact the conservation district (Title 76, Chapter 15, MCA) prior to initiating any activity.

Statute: 75-7-101 *et seq.*, MCA (Natural Streambed and Land Preservation Act)

Rule: ARM 36.2.401, *et seq.*

Contact: CONSERVATION DISTRICT;
GRASS CONSERVATION DISTRICT;
BOARD OF COUNTY COMMISSIONERS; or

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Conservation and Resource Development Division
Conservation Districts Bureau

B. Public Projects: A state or federal agency, county or city government or other political subdivision, with the exception of irrigation districts, must apply for a Stream Protection Act (also called a 124) permit from the Montana Department of Fish, Wildlife and Parks (FWP) before beginning a project that may alter the bed or banks of any stream or river in Montana.

Statute: 87-5-501 *et seq.*, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. **Permitting Procedures**

A. Private Projects: An individual planning a project must obtain a permit application prior to any activity in or near a stream. Applications are available at the Conservation District offices or at the Department of Natural Resources and Conservation website at http://www.dnrc.state.mt.us/cardd/jointapplinfo.html. If a permit is required, a team composed of a district supervisor, a FWP biologist and the applicant conduct a site inspection. The supervisors have 60 days from the date of application to approve, modify or deny the permit.

Statute: 75-7-111 through 116, MCA

B. Public Projects: An agency planning a project must submit a Notice of Construction (application) to FWP at least 60 days before the anticipated date of construction. Within 30 days after the department receives project plans, it must notify the applicant whether or not the project will adversely affect any fish or wildlife habitat. The department may require modifications to the project and make recommendations for alternative plans. Recommended construction conditions take the form of a permit issued to the applicant. If the applicant refuses to modify the plans as outlined in the permit, and an agreement can not be reached, an arbitration panel may be appointed by the District Court.

3. **Emergencies**

A. Private Projects: No prior notice or approval is necessary for emergency actions taken to safeguard life or property. However, notice must be given to the supervisors or commissioners within 15 days following the emergency action. A team will be called together to evaluate the project.

Statute: 75-7-113, MCA

B. Public Projects: A 124 permit is not required from public agencies for situations requiring emergency response such as ice jams, floods, etc. An emergency is defined as an imminent threat to life or property that could not be forseen.

Statute: 87-5-506, MCA

4. **Other Information and Requirements**

A land use license or easement is required by an entity proposing a project on lands below the low water mark of navigable waters as designated by the Montana Department of Natural Resources and Conservation (DNRC) (see STATE LANDS, p. 8).

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

Under Section 10, federal Rivers and Harbors Act, any structure or work on, over, under or affecting navigable waters requires authorization from the U.S. Department of the Army, Corps of Engineers. Navigable waters in Montana regulated by the Corps, under the Rivers and Harbors Act, include the Missouri River from Three Forks downstream to the Montana-North Dakota border; the Yellowstone River from Emigrant downstream to its confluence with the Missouri River; and the Kootenai River from the Canadian border downstream to Jennings, Montana.

Under Section 404 of the federal Clean Water Act, a permit is required from the U.S. Department of the Army, Corps of Engineers for the placement of any dredged or fill material in United States' rivers, streams, lakes or jurisdictional wetlands. The U.S. Environmental Protection Agency develops environmental review criteria, reviews projects and has enforcement authority under the Act.

The Montana Department of Environmental Quality must provide 401 water quality certification prior to issuance of Corps of Engineers permits. The certification

process is handled internally through agreements between the agencies.

Statute: 33 U.S.C. § 401 *et seq.* (Rivers and Harbors Act)
33 U.S.C.A. § 1251 *et seq.* (Clean Water Act)

Rule: 33 C.F.R. 209 and 40 Federal Register 31319
ARM 17.30.101 *et seq.* (401 certification)

Contact: U.S. Department of the Army
Corps of Engineers
District Engineer

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

A person planning new construction, including, but not limited to, placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of equipment or materials, excavation and new construction of or additions to mobile homes and residential and commercial buildings must check with the local governing body to determine if the activity is in a designated floodplain or floodway (see FLOODPLAINS and FLOODWAYS, p. 3).

Contact: LOCAL GOVERNMENT

A 318 (formerly 3A) authorization must be obtained from the DEQ prior to initiating a short-term activity that may cause unavoidable short-term violations of state water quality standards (see WATER QUALITY PERMITTING, p. 177). The FWP may also issue 318 authorizations during the 310 or 124 permitting process.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

AGRICULTURAL SEED

1. Types of Activities Regulated

A license is required from the Montana Department of Agriculture (DOAg), with some exceptions, for facilities in the state that condition[1] agricultural seed, for when a person's name and address appear on the label of agricultural seed and for a person who sells agricultural seed in Montana.

Statute: 80-5-120, *et seq.*, MCA

Rule: ARM 4.12.3002 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A license application for a facility that **conditions, labels or sells** agricultural seed is available from the DOAg. The application requests the applicant's name, place of business and mailing address; the location of each seed conditioning facility if applying for a seed conditioning plant license; a sample label if applying for a seed labeler's license; and a list of persons who may be selling seed for the company. A license is required for each location where seed is located or sold. Licenses must be renewed annually and expire on June 30th.

Statute: 80-5-130, *et seq.*, MCA

3. Fees

The fee for an out-of-state person selling seed in Montana is $110. The fee for all other licenses in $55.

Seed labelers located outside Montana who sell agricultural seed in Montana must report sales and pay an assessment of 20 cents per $100 in gross annual sales. The report and fee are due July 31st for the preceding 12 month period.

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[1] A conditioned seed is dried, cleaned, scarified or altered in a way that changes its purity or germination properties.

Statute: 80-5-130, MCA

Rule: ARM 4.12.3009

4. Additional Information

A label is required on all containers of seed sold in Montana. The labels must be truthful and appropriate to the product and contain specific information required by law.

Statute: 80-5-123, MCA

ANIMAL FEEDING OPERATIONS

1. Types of Activities Regulated

A permit is required from the Montana Department of Environmental Quality (DEQ) for a concentrated animal feeding operation (CAFO) that has the potential to discharge pollution from livestock waste into surface or ground water. A Montana Pollutant Discharge Elimination System (MPDES) permit is required when the following conditions are met:

The facility meets both of the criteria for an animal feeding operation:

❶ Animals are stabled, confined and fed or maintained for a total of 45 days or more in a 12-month period; and
❷ Crops, vegetation forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the facility.

The facility meets one of the following criteria for a concentrated animal feeding operation:

❶ Contains more than 1,000 animal units;
❷ Contains between 301 and 1,000 animal units and a discharge occurs through a man-made conveyance; or pollutants are discharged directly into state waters that originate outside of the facility and pass over, across or through the facility; or
❸ Is designated as a CAFO by the DEQ. Criteria for designation by the DEQ are described in ARM 17.30.1330.

The facility has the potential to discharge to state waters as defined in section 75-5-103 (25), MCA. State waters include surface or underground bodies of water, irrigation systems or drainage systems.

Other permits may also be required depending on the location of the facility. See STREAM BEDS, STREAM BANKS, WETLANDS p. 11; and CONSERVATION DISTRICTS p. 2.

Statute: 75-5-605, MCA

Rule: ARM 17.30.637 and 17.30.1301 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. Application Requirements

A CAFO operator applies for a discharge permit by completing *Short Form B* for concentrated animal feeding operations and paying the application fee. The application form requests information on facility ownership, location, size, type, physical surroundings, as well as waste management, odor and dust control and land application practices. A map must be submitted that shows the location of physical features, drainage patterns, certain water sources and residential areas, as well as the direction of prevailing winds. See WATER QUALITY PERMITTING, p. 177, for additional information on application requirements and permitting procedures.

3. Fees

The DEQ assesses fees to cover a portion of the costs of implementing the water quality program. For a schedule of fees see ARM 17.30.201.

4. Additional information

A discharge to surface water is allowable only when precipitation causes an overflow from a facility designed, constructed, and operated to contain all process generated waste waters plus the runoff from a 25-year, 24-hour rainfall.

A discharge of pollutants to ground water may only occur when seepage or leachate from a CAFO, combined with the volume of ground water beneath the source, results in a ground water nitrate nitrogen concentration of 7.5 milligrams per liter or less.

COMMERCIAL FEED

1. Types of Activities Regulated

A license must be acquired from the Montana Department of Agriculture (DOAg) by:

A. A person who manufactures commercial feed in Montana;

B. A person who distributes commercial feed in or into Montana; or

C. A person whose name appears on the label of a commercial feed as a guarantor.

D. A license is not required for a distributor who distributes only pet food or specialty pet food (food for pets normally maintained in a cage or tank such as canaries, goldfish, hamsters, etc.), but these products must be registered with the DOAg.

Statute: 80-9-201 *et seq.*, MCA

Rule: ARM 4.12.219 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A-C. A license application for a facility that manufactures, distributes or is a guarantor for commercial feed is available from the DOAg. The application requests the applicant's name, place of business, mailing address, facility location and an indication of whether the facility manufactures feed, distributes feed, or both. A license is required for each facility, distribution point or point of invoicing. Licenses must be renewed annually and expire on December 31st.

D. To register a pet food or specialty pet food, the applicant must provide their name and address and a standard list of products being registered. Pet foods and specialty pet foods must be registered annually. The registration is valid from January 1st to December 31st.

3. **Fees**

License Fees: All new applicants must pay a nonrefundable fee of $75 per calendar year for a license for each facility, distribution point or point of invoicing. License renewals are $50. The DOAg may collect a $25 late fee for renewal applications received after January 1st.

Pet Food Registration: The registration fee for each pet food or specialty pet food is $25.

An inspection fee of 18 cents per ton must be paid on all commercial feeds, excluding pet foods and specialty pet foods.

Statute: 80-9-206 *et seq.*, MCA

Rule: ARM 4.12.218

4. **Additional Information**

A commercial feed must be accompanied by a label containing truthful and appropriate information as it relates to the product and species. Labeling must meet the specific requirements of the statutes and rules.

Statute: 80-9-202, MCA

CROPLAND LEASES ON STATE LANDS

1. **Types of Activities Regulated**

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a *crop share rental value* of not less than one-fourth of the annual crop, or the usual *landlord's share* prevailing in the area, whichever is greater. See also GRAZING, p. 22.

Statute: 77-6-501 *et seq.*, MCA

Rule: ARM 36.25.102 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

2. **Leasing Procedures**

1) Leases go to the highest bidder, unless the Board determines that this decision is not in the state's best interest.

2) Present leaseholders have a preference right over others seeking to lease the same land. These leaseholders may meet the highest bid made by any applicant by exercising their preference right, and may appeal the bid to the Board if they consider the bid excessive. Present holders may exercise their preference only if they have not subleased the land for more than two years in the term of the lease or more than five years if subleased to a spouse, son, daughter, adopted child or sibling of the lessee. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease.

3) Lease terms are five or 10 years.

Statute: 77-6-201 *et seq.*, MCA

FERTILIZER REGISTRATION

1. **Types of Activities Regulated**

A. Fertilizer Registration: Fertilizers and soil amendments, except unmanipulated animal and vegetable manures, must be registered by or on behalf of the manufacturer with the Montana Department of Agriculture (DOAg) before distribution in Montana. It is unlawful to distribute fertilizers or soil amendments adulterated with metals in amounts that exceed the levels identified in DOAg rules.

B. Fertilizer Distribution License: A license is required from the DOAg to sell or distribute any type of fertilizer or soil amendment.

C. Anhydrous Ammonia Facilities: Department approval is required for the construction and operation of anhydrous ammonia facilities.

Statute: 80-10-201 and 202 and 80-10-503, MCA

Rule: ARM 4.12.601 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. **Application Requirements**

A. All applications for fertilizer registration must include the name and address of the applicant; the brand, grade and guaranteed analysis of the fertilizer; and other detailed information about each product as required by the DOAg. Fertilizers or soil amendments that contain a waste or sewage sludge must be identified as such in the registration application. The application must also state the source of the waste and the level of metals in the end product. Registrations expire on December 31st of each year.

B. A license is required for each fertilizer distribution or handling facility, and may be acquired by completing forms provided by the DOAg. Licenses expire on December 31st of each year.

C. Applications for an anhydrous ammonia facility must include written approval from the local governing body or a zoning permit issued by the county or town where the facility will be located. Storage tanks and associated equipment must meet applicable safety and design codes at the time of installation.

Statute: 80-10-201 *et seq.*, MCA
80-10-501, *et seq.*, (anhydrous ammonia)

Rule: ARM 4.12.601, 604, 4.12.704 and 706-710

3. **Fees**

The fee for registering each fertilizer and soil amendment is $20 and $35 for each specialty fertilizer. An additional $10 fee is required for fertilizers and specialty fertilizers to fund the ground water protection responsibilities of the DOAg.

New applicants for fertilizer distribution licenses, or those failing to renew by January 1st, pay a nonrefundable $75 fee. License renewals received before January 1st are $50.

The DOAg also assesses inspection fees on the tonnage of fertilizer distributed, except for specialty fertilizers and unmanipulated animal and vegetable manures.

Statute: 80-10-103, 201, 202, 207and 80-15-302, MCA

Rule: ARM 4.12.608

4. Additional Information

Commercial fertilizer containers and packaging must be labeled. The labels must be truthful and appropriate to the product and contain specific information required by law.

Statute: 80-10-204, MCA

GRAZING

1. Grazing Districts

1) Preferences and permits for grazing within a grazing district must be obtained from the grazing district directors.

2) A person who wishes to obtain grazing preferences (i.e., the right to obtain a grazing permit from the district) must make an application to the district. Temporary permits may be issued to nonmembers on an annual basis upon application to the district.

3) Transfer of preferences may not be allowed without the written consent of the owner of the property from which the transfer will be made. A transfer is not effective until approved by the Montana Grass Conservation Commission.

4) Prior to the transfer, a public hearing must be held before the Board of Directors of the district.

5) A person is not required to obtain a permit to graze livestock on land that the person owns or controls within a district if the stock being grazed are kept from running at large in the district and from grazing on any other lands within the district.

Statute: 76-16-310 and 76-16-401 *et seq.*, MCA

Contact: GRAZING DISTRICT DIRECTORS

2. State Leases

The DNRC issues leases, through competitive bidding, for grazing on state lands.

Leasing Procedures

1) When the DNRC receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding is by sealed bid mailed to the DNRC headquarters in Helena.

2) Present leaseholders have a preference right over others seeking to lease the same land. These leaseholders may meet the highest bid made by any applicant by exercising their preference right, and may appeal the bid to the Board if they consider the bid excessive. Present holders may exercise their preference only if they have not subleased the land for more than two years in the term of the lease or more than five years if subleased to a spouse, son, daughter, adopted child or sibling of the lessee. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease.

3) A person bidding for the lease of state lands must deposit a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to $1 per acre for each acre of agricultural land.

4) The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.

5) Lease terms are five or 10 years.

Statute: 77-6-101 *et seq.* and 77-6-201 *et seq.*, MCA

Rule: ARM 36.2.1003 and 36.25.102 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

3. Federal Leases

The Bureau of Land Management and the U.S. Forest Service issue grazing leases and grazing permits for federal land administered by those agencies.

Statute: Organic Administration Act
Federal Land Policy and Management Act

Public Rangelands Improvement Act
Taylor Grazing Act, as amended

Rule: 43 C.F.R. § 4100, 36 C.F.R. § 222(A)

Contact: U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Resource Area or Field Office

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

NURSERIES

1. Types of Activities Regulated

The Montana Department of Agriculture (DOAg) licenses nurseries to control the spread of plant pests, noxious weeds and exotic plants. Nurseries grossing over $1,000 in annual sales must be licensed. A nursery earning less than $1,000 that submits a notarized affidavit to that effect is exempt from this requirement. The department must be notified if any nursery stock or material becomes infested. The DOAg may, on its own, conduct an inspection or the nursery may, by giving the department five days notice and paying a fee, request an inspection. A plant inspection certificate may be issued based on the results of the inspection or an inspection survey.

Statute: 80-7-105 *et seq.,* MCA

Rule: ARM 4.12.1405 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agriculture Sciences Division

2. Fees

The license fee for a nursery earning from $1,000 to $3,000 on the sale of nursery stock is $30. For a nursery that earns $3,000 or more the fee is $95. The late renewal or new applicant fee is an additional $25. Annual plant inspection certificates are $50.

Statute: 80-7-106, MCA

Rule: ARM 4.12.1405

3. **Additional Information**

The DOAg is authorized to adopt rules for imposing and administering quarantines to control injurious plant pests, plants capable of spreading plant pests, noxious weeds and other exotic plants. The department is also authorized to receive money and impose penalties to fund the program.

Statute: 80-7-401 *et seq.*, MCA (Montana Quarantine and Pest Management Act)

PESTICIDES

1. **Types of Activities Regulated**

Pesticide Registrations

A. The **manufacturer, formulator, or distributor** of each pesticide distributed, sold, or transported in Montana must register the pesticide each year with the Montana Department of Agriculture (DOAg). Registrations expire December 31stof the year issued.

Licenses

B. Commercial, noncommercial and government **applicators** must be licensed annually by the DOAg. Farm applicators must obtain special-use permits for restricted-use pesticides. The department routinely inspects pesticide applicators for compliance with pesticide labeling and state and federal statutes.

C. **Pesticide dealers** also must be licensed annually by the department. The DOAg routinely inspects pesticide dealers for compliance with pesticide labeling and state and federal statutes.

Aircraft Registration

D. All pilots must register their aircraft with the Montana Department of Transportation, Aeronautics Division, and certify that they have met all Federal Aviation Administration requirements for aerial pesticide applicators.

Statute: 80-8-101 *et seq.*, MCA (Montana Pesticides Act)
80-15-101 *et seq.*, MCA (Montana Agricultural Chemical Ground Water Protection Act)

Rule: ARM 4.10.101 *et seq.* and ARM 4.11.101 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

DEPARTMENT OF TRANSPORTATION
Aeronautics Division

2. **Application Requirements**

Pesticide Registrations

A. A person applying to register a pesticide must file a statement with the DOAg that includes the applicant's name and address and the name and address of the person whose name will appear on the label, a complete copy of the pesticide label, the U.S. Environmental Protection Agency registration number if the pesticide is registered and a statement of all claims to be made for it, including directions for use, the trade and chemical name of the pesticide, and if required by the DOAg, a description of tests and the results upon which the claims are based. The state must accept for registration all federally registered products. However, the state may restrict or prohibit the use or sale of a pesticide to prevent harm to individuals, property, plants, trees, animals or fish.

Licenses

B. The applicant for a **pesticide applicator's license** must file annually with the department prior to pesticide use. The DOAg's application and liability forms must be completed. An operator's license is required for persons employed by a commercial applicator to apply pesticides. A pesticide applicator's and operator's examination or training is also required of each new applicant. Applicants must maintain their qualifications in subsequent licensing years by attending training courses.

Farm applicators qualify for their first permit by either passing a graded written exam or attending a training course approved by the DOAg and taking an ungraded written exam. They must also maintain their qualifications by periodically attending training courses. Farmers must file for

a new special-use permit and attend an approved training program every five years.

C. An applicant for a **dealer's license** must file annually with the DOAg and pass an examination administered by the department. Dealers are also required to maintain their qualifications in subsequent licensing years by attending training courses.

D. Individuals applying for a **license for aerial application** of pesticides must certify on the application that they have met all the Federal Aviation Administration and the DOAg requirements for aerial pesticide applicators.

Statute: 80-8-201, 203 through 209, 211 and 80-15-302, MCA

Rule: ARM 4.10.201, 203-209, 401-404 and 501-504

3. **Permitting Procedures**

A. Pesticide Registration

1) The Departments of Environmental Quality (DEQ); Agriculture; and Fish, Wildlife and Parks (FWP) must review all applications for registration of an experimental-use permit or registration of a pesticide for special local needs. The departments utilize the same requirements and standards for reviewing registrations as established by the federal Insecticide, Fungicide and Rodenticide Act.

2) The DEQ and FWP must approve or disapprove applications within 10 days after receipt.

3) If two of the three departments are in agreement with the proposed registration, the DOAg must issue the registration.

Statute: 80-8-201(8), MCA

4. **Fees**

A. The fee for each registered pesticide is $90 annually plus an additional $95 to fund the ground water protection responsibilities of the DOAg. If the application is for emergency exemptions requested by the state, a special local-need registration or an experimental-use permit registration, the fee is $90.

B. The fee for a commercial pesticide applicator's license is $45 annually and $25 for a late renewal. The DOAg also assesses a $10 fee to fund the state's waste pesticide and pesticide container collection, disposal and recycling program.

The annual fee for a government applicator's license is $50 for each of the first four employees and an additional $10 fee to fund the state's waste pesticide and pesticide container collection, disposal and recycling program. For each additional employee applicator there is a $5 fee, and an additional $10 waste pesticide disposal program fee, with a fee cap of $600 for an agency.

The fee for a farm applicator permit is $50 for a five year permit.

The fee for pesticide operators is $25 each for the first two operators and $10 for each additional operator.

C. The annual application fee for a commercial dealer's license is $75 and $25 for a late renewal. The DOAg also assesses a $10 fee to fund the state's waste pesticide and pesticide container collection, disposal and recycling program. The annual fee for a government dealer's license is $75.

Statute: 80-8-201, 203 through 209, 213 and 80-15-302(1), MCA

Rule: ARM 4.10.206(4)

5. **Criteria for Registration of Pesticides**

If it does not appear to the DOAg that the pesticide warrants proposed claims for it or if the article and its labeling do not comply with the Montana Pesticides Act, the department must notify the applicant to allow them an opportunity to make the necessary corrections. If the applicant does not make the corrections, the DOAg may refuse to register the pesticide. The department's decision may be appealed.

Statute: 80-8-201(6), MCA

6. **Disposal**

Empty containers must be disposed of according to label instructions. This disposal must not cause injury to humans, domestic animals and wildlife, or pollute lakes and streams. Most empty pesticide containers must be triple rinsed, punctured and recycled or disposed of in a sanitary landfill.

Participants in the DOAg's pesticide disposal program pay a fee of $1 per pound for disposal of acceptable pesticides in quantities of 200 pounds or less and 50 cents per pound for quantities greater than 200 pounds.

Statute: 80-8-111, MCA

Rule: ARM 4.10.1801 *et seq.*

7. **Public Notice**

The owner or manager of a public building must post a notice at the entryway to a building or room where certain pesticides have been applied that tells the name of the pesticide and a number to call for more information.

Statute: 80-8-107, MCA

BUILDING CODES AND RESTRICTIONS

1. Types of Activities Regulated

The statewide building code applies to all construction throughout the state with the exception of residential structures with fewer than five dwelling units; farm and ranch buildings; private garage and storage structures used only by the owner; mine buildings on mine property regulated under state mining laws and subject to inspection under the federal Mine Health and Safety Act; and certain petroleum refineries, pulp and paper mills and industrial process-related structures, vessels and piping. Counties, cities or towns, by adopting local ordinances or resolutions, may make the state building code applicable to these excepted properties. If counties, cities or towns adopt local building codes, enforcement is by local rather than state authorities.

All residential construction, except farm and ranch buildings and garage and storage structures used by the owner, are required to meet energy conservation provisions of the state building code. If the energy conservation codes are not enforced by local or state government for those residential buildings containing less than five dwelling units, the builder must certify to the owner that the building is constructed in compliance with the energy code. A person constructing a new residential building must attach a labeling sticker to the interior electrical panel stating the energy features of that building.

2. Application Procedures

A permit must be obtained from the appropriate authorities before construction can begin.

Statute: 50-60-101 *et seq.* and 50-60-801, *et seq.*, MCA

Rule: ARM 24.301.101 *et seq.*

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF LABOR AND INDUSTRY
Business Standards Division

3. Fees

The various fees required for building, mechanical, plumbing and electrical permits are listed in the Montana Department of Labor rules. Local governments certified to enforce the state building code may establish their own fees.

Rule: ARM 24.301.105 and 170

ZONING

1. Applicability

Before beginning any development or related activity, a person should determine if local zoning regulations exist. Under Montana law, cities, towns and counties may adopt zoning regulations and establish zoning districts for the regulation of land use, density, height and size of buildings, percentage of lot occupied, size of yards, population density, location and use of buildings, etc. If zoning exists, a permit for the development or activity may be required. Application of zoning regulations to various activities and entities is addressed separately in many places in the Montana Codes (MCA).

Statute: 76-2-101 *et seq.* and 76-2-201 *et seq.*, MCA (counties)
76-2-301 *et seq.*, MCA (municipalities)
67-4-101 *et seq.*, MCA (zoning around airports)

Contact: LOCAL GOVERNMENT

LOCAL ZONING COMMISSION

AIR QUALITY PERMITS: STATE

1. Types of Activities Regulated

An air quality permit and/or an air quality operating permit are required from the Montana Department of Environmental Quality (DEQ) for the construction, installation and operation of equipment or facilities that may cause or contribute to air pollution. Exceptions include residential heating units, motor vehicles, trains, aircraft, equipment for road construction (except stationary sources--permits are required for temporary crushers and asphalt plants) and other sources which emit less than specified amounts. A city or county may administer its own air quality permit program in lieu of part or all of the DEQ's air quality permit program if the program is approved by the Montana Board of Environmental Review (BER).

Statute: 75-2-101 *et seq.*, MCA (Montana Clean Air Act)

Rule: ARM 17.8.740 *et seq.* and 17.8.1201 *et seq.*

Contact: LOCAL GOVERNMENT
Health Department

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau

2. Application Requirements

Applicants for air quality permits must file an application with the DEQ at least 180 days before construction begins, or if construction is not required, at least 120 days before installation, alteration or use of the facility begins.

Applicants for air quality operating permits for new *major sources* (as defined by DEQ rule) must submit operating permit applications concurrently with any associated air quality permit applications. Existing facilities are required to submit an application within 12 months of becoming subject to the operating permit program.

Statute: 75-2-211, MCA (air quality permit)
75-2-217, MCA (operating permit)

Rule: ARM 17.8.748 and 17.8.1205

3. **Permitting Procedures**

A. Air Quality Permit

1) The application for an air quality permit is not considered filed until all filing requirements are completed. However, if the DEQ fails to notify the applicant within 30 days that an application is incomplete, the application is considered complete.

2) The applicant must post public notice in a newspaper of general circulation in the area of the proposed facility within 10 days before or after submitting the application. The DEQ will supply the form of the notice.

3) Within 40 days after receipt of the complete and filed application, the DEQ must make a preliminary determination on whether the permit should be issued, issued with conditions, or denied. The DEQ must notify both the applicant and the members of the public who requested notification of its preliminary determination. There is a 15 day comment period after the preliminary determination is issued for most minor source permits. There is a 30 day public comment period after the preliminary determination is issued for permits that are subject to certain federal air permitting provisions (see 42 U.S.C. 7475, 42 U.S.C. 7503 and 42 U.S.C. 7661), for incinerators (see pp. 36 and 137) and for permits that require an Environmental Impact Statement (EIS), (see MONTANA ENVIRONMENTAL POLICY ACT, p. 114).

4) The DEQ has 60 days after a completed and filed application is submitted to notify the applicant of its decision for most minor source permits. The DEQ has 75 days after a completed and filed application is submitted to the department to notify the applicant of its decision for permits that are subject to certain federal air permitting provisions (see above), for incinerators and for permits that require an EIS. Extensions may be granted under certain conditions by written agreement of the DEQ and the applicant. If an EIS is required, final action must be taken within 180 days if the DEQ prepares the EIS.

5) The applicant may appeal the DEQ's determination to the BER. Any person adversely affected by the decision to approve or deny the application may also appeal to the BER within 15 days of the DEQ's determination, upon affidavit, explaining the grounds for the appeal.

6) If no appeal is filed, the permit becomes final 15 days after the DEQ's determination. If an appeal is filed, the permit becomes final after any Board or judicial action is final.

Statute: 75-2-211, MCA

Rule: ARM 17.8.740 *et seq.*

B. Operating Permit

Operating permits must be obtained for all new and existing major sources of air pollution and are subject to the same completeness and appeal procedures as air quality permits. In addition, the application for an operating permit requires more extensive public notification, including the requirement that the applicant notify surrounding states and the U.S. Environmental Protection Agency (EPA). Operating permits must be renewed every five years.

Statute: 75-2-218, MCA

Rule: ARM 17.8.1203-1207

C. Operation of Temporary Power Generation Units (terminates July 1, 2005)

The construction or operation of certain temporary power generation units is allowed under certain conditions prior to receiving an air quality permit if the applicant has received a written notice from the DEQ that their application is considered filed. The permit applicant is required to cease construction or operation if, after notification by the DEQ, the applicant has failed to submit the requested information that is necessary to process the permit application. A permit issued pursuant to this legislation expires no later than 2 years from the date of issuance and the temporary power generation unit or units must be removed unless an air quality permit for a permanent operation has been issued. The operation of the units may not violate ambient air quality standards.

Statute: 75-2-211(12), MCA

4. **Fees**

The DEQ assesses an application fee and an operating fee from applicants and permit holders to fund the air quality permitting program and to implement and enforce the terms and conditions of the air quality permit.

Statute: 75-2-220, MCA

Rule: ARM 17.8.501 *et seq.*

5. **Criteria**

An air quality permit to construct or operate a new or altered air pollution source can not be issued unless the source is able to comply with the standards, emission limitations and other rules adopted under the Montana Clean Air Act, the applicable regulations and requirements of the federal Clean Air Act and any applicable control strategy contained in the Montana State Implementation Plan. The applicant must also demonstrate that the source will not cause or contribute to a violation of a Montana or national ambient air quality standard.

Rule: ARM 17.8.749

6. **Additional Information**

A. Prevention of Significant Deterioration (PSD)

1) When a major new source of air pollution is proposed to be constructed or modified in an area in compliance with ambient air quality standards, a more stringent review procedure may apply. The review may include one year of preapplication baseline data, control technology review, air pollution impact modeling and other appropriate measures.

2) The DEQ must: 1) advertise in a newspaper of general circulation in the air quality control region affected by the proposed source that an application has been received, the DEQ's preliminary determination, the degree of increment consumption expected from the source, how written comments may be submitted and how the DEQ's final determination may be appealed to the Board; and 2) forward copies of the notice of public comment to the applicant, Region VIII Administrator of the EPA and to area officials and agencies affected by the proposed construction.

Rule: ARM 17.8.801 *et seq.*

B. New Source Review in Nonattainment Areas

Major new or modified sources of air pollution constructing in or near areas that are not attaining ambient air quality standards must meet additional permitting criteria, including obtaining emission offsets and installing control equipment that meets the *lowest achievable emission rate* (LAER).

Rule: ARM 17.8.901-906

C. Incinerators - Commercial Medical or Hazardous Waste

Commercial medical waste and commercial hazardous waste incinerators have special requirements in addition to the permitting requirements under the Montana Clean Air Act (see AIR QUALITY PERMITS, p. 32); and the Montana Solid Waste Management Act (see SOLID WASTE - HAZARDOUS WASTE, p. 135), Commercial medical waste and commercial hazardous waste incinerators must achieve the lowest achievable emission rates as identified by DEQ rules for dioxins, furans, heavy metals and other hazardous air pollutants to prevent risk to public health. The plan for a commercial hazardous waste incinerator must include a scheme for the cessation of burning if site-specific monitoring determines that inversion conditions, as defined by DEQ rule, exist. If the facility is close to a populated area, the department may require the owner or operator of an existing commercial hazardous waste incinerator or an applicant for an air quality permit for a commercial hazardous waste incinerator to provide telemetering service to the DEQ with an immediate notification system activated when emissions approach or exceed permitted limits.

The definition of commercial medical waste incinerator does not include hospital or medical facilities that primarily incinerate medical waste generated onsite.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau
Waste and Underground Tank Management Bureau

Statute: 75-2-230 and 231, MCA

Rule: ARM 17.8.740 *et seq.*

A statement disclosing if the applicant has had a record of complaints and convictions for the violation of environmental protection laws is required for the issuance, transfer or alteration of an air quality permit for a commercial

medical waste or commercial hazardous waste incinerator. The DEQ may deny an application or impose conditions on a permit based on an applicant's compliance history.

Statute: 75-2-232 and 233, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau

D. Variances

A person may apply to the BER for an exemption from applicable rules governing emissions. The variance may be issued if the Board finds there will be no adverse impact to public health or safety, and that compliance with the rules would be an undue hardship on the applicant. The length of the variance is at the BER's discretion and may be renewed. An applicant for a variance must submit a sum of two percent of the cost of equipment needed to bring the facility into compliance with the rule from which the exemption is sought, but not less than $500 nor more than $80,000.

Statute: 75-2-212, MCA

Rule: ARM 17.8.120

AIR QUALITY PERMITS: FEDERAL

Federal air quality permits are only required for activities on the state's seven Indian Reservations. The state has responsibility for permitting all other facilities, including federal facilities. Air pollution sources in Missoula County are an exception. Missoula County has been granted authority to administer its own air quality permitting program for those air pollution sources that are not subject to federal permitting requirements.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau

ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

GEOTHERMAL LEASES

Development of geothermal resources will generally require the appropriation of water (see WATER APPROPRIATIONS - GROUND WATER, p. 169), and may require a Certificate of Compliance (see MAJOR FACILITY SITING ACT, p. 46). For general information, contact the Montana Department of Environmental Quality.

GEOTHERMAL LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state-owned lands, including the beds of navigable streams and water bodies, for the purposes of prospecting, exploration, well construction or production of geothermal resources.

Statute: 77-4-101 *et seq.*, MCA

Rule: ARM 36.25.401 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Permitting Procedures

1) A person applying for a geothermal lease on state lands must submit a completed application on a form supplied by the Montana Department of Natural Resources and Conservation that contains an adequate description of the land. A water right may also be required. See WATER APPROPRIATIONS - GROUND WATER, p. 169 and WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 171.

2) Sale of geothermal leases occurs after receipt of a sufficient number of applications to warrant a sale.

3) A notice of sale must be published in a geothermal trade journal or in two newspapers of general circulation in Lewis and Clark County. Notice must be published for four weeks preceding the sale date. The sale may be offered by competitive bid.

4) A minimum bond of $2,000 is required to protect the state's interest in the resource.

5) The term of a geothermal lease is 10 years. Compensation must be paid to the surface lessee, if any, for damage to the surface or the lease holder's interest.

Rule: ARM 36.25.404

3. **Fees**

The fee for a geothermal lease application is $25. Rental and royalty charges are determined by the Board but are not less than $1 per acre, not less than 10 percent of the amount or value of steam, heat or energy produced and not more than five percent of any byproduct.

Rule: ARM 36.2.1003, 36.25.404 and 406

HAZARDOUS SUBSTANCES - COMMUNITY RIGHT TO KNOW

1. **Types of Activities Regulated**

The purpose of the federal Emergency Planning and Community Right to Know Act (EPCRA--also known as SARA Title III) is to provide local governments and the public with information about hazardous substances in their communities in order to encourage and support facility planning in the event of an accidental release or spill.

Under the EPCRA, the governor of each state appoints a State Emergency Response Commission (SERC), which in turn appoints Emergency Planning Districts and a Local Emergency Planning Commission (LEPC) for each district. In Montana, each county is a district, thus there are 56 districts and LEPCs. A person or facility with designated types and quantities of hazardous or toxic substances must compile information on the chemicals it uses, stores and releases into the environment and provide this information to the SERC, the LEPC and the local fire department. The LEPCs receive and maintain information, assist in facility planning and develop a district plan to prepare for chemical emergencies.

Rule: 40 C.F.R. § 301 *et seq.*

Contact: LOCAL EMERGENCY PLANNING COMMISSION

U.S. ENVIRONMENTAL PROTECTION AGENCY
Washington D.C.
EPA Hotline: 1-800-535-0202

DEPARTMENT OF ENVIRONMENTAL QUALITY
Director's Office

HYDROELECTRIC POWER DEVELOPMENT

1. Types of Activities Regulated

Nonfederal hydroelectric power plants on navigable waters of the United States, those which occupy federal land or utilize water power from a government dam, or those which, under certain circumstances, affect the interest of interstate or foreign commerce, must be licensed by the Federal Energy Regulatory Commission (FERC). *Navigable waters* of the United States includes virtually all waters in Montana and the other 49 states. As a result, FERC is the lead agency in the licensing of new hydropower facilities and in the re-licensing of existing facilities. FERC, acting under the authority of the federal Power Act, as amended, and the National Energy Policy Act of 1992, processes and evaluates the federal applications required for all hydropower dams, diversions and other hydropower developments; reviews and analyzes environmental impacts of hydropower projects and determines appropriate mitigation and enhancement measures; and sets requirements governing the sale of the hydropower generation at the wholesale level.

There are six primary subject areas where state regulation of hydroelectric power must be considered in addition to the federal requirements under FERC. These areas (and the responsible state agencies) are:

1) Water rights permits: Contact the Montana Department of Natural Resources and Conservation (DNRC), Water Rights Bureau, (see WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 171).
2) 310 permit for altering a perennial stream: Contact the DNRC, Conservation Districts Bureau or the local Conservation District supervisor (see CONSERVATION DISTRICTS, p. 2).
3) Water quality certification under Section 401 of the federal Clean Water Act: Contact the Montana Department of Environmental Quality.
4) Fish and wildlife impact evaluation (no permit required): Contact the Montana Department of Fish, Wildlife and Parks, Habitat Protection Bureau, Helena.
5) Hydropower projects on state land (see below).
6) Hydropower projects on state-owned dams (see below).

In addition, a 404 permit is required from the U.S. Department of the Army, Corps of Engineers for any dredge and fill activity or other work affecting United State's waters or wetlands. Contact the U.S. Department of the Army, Corps of Engineers, (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11).

Statute: federal Power Act, 16 U.S.C. § 791a *et seq.*

Contact: FEDERAL ENERGY REGULATORY COMMISSION
Office of Hydropower Licensing
Washington D.C.

FEDERAL ENERGY REGULATORY COMMISSION
Regional Office
Portland, Oregon

HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may grant leases for construction and operation of hydroelectric power sites on state lands to any person, corporation or municipality. See HYDROELECTRIC POWER DEVELOPMENT, p. 40.

Statute: 77-4-201 *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

2. Application Requirements

An application must be presented to the Board for lease or license of a power site on state lands. A preliminary examination of the proposed site's value for development is required. If the investigation requires further proceedings, the Board must publish a notice regarding the proposed lease or license for six weeks in two state newspapers, one of which must be from the affected area. The Board, at its meeting on the proposed site, may consider the original application along with any other filed applications. The Board has the power to reject any or all bids. Acceptance depends on which offer is considered to be the most advantageous to the state. The Board of Land Commissioners may establish any reasonable restrictions and regulations in the lease or license to protect the state and its people. Bid preferences are given to municipalities. The term of the lease can not exceed 50 years.

Statute: 77-4-203 through 211, MCA

HYDROELECTRIC DEVELOPMENT AT STATE-OWNED DAMS

1. Types of Activities Regulated

The Montana Department of Natural Resources and Conservation (DNRC) may lease sites at state water projects which it determines to be feasible for energy generation and in the best interest of the people of Montana.

2. Application Procedures

1) The DNRC must study the economic and environmental feasibility of construction and operation of a small-scale hydroelectric power generating facility on each of its dams, and periodically update the studies. If the department determines that hydroelectric generation at a state-owned dam is feasible based on the study, the department must publish an advertisement soliciting lease applications.

2) Following publication, individuals, public utilities and electric cooperatives have 180 days to submit applications to the department. Applications must include a statement of the capability of the applicant to achieve the annual production output estimated by the department, the estimated time to make the project operational, the bid amount of the royalty and any other information that the department requests.

3) The department will hold a hearing to examine all applications, and must decide whether to accept or reject applications within 180 days after the close of the application period.

4) The DNRC is authorized to hold any federal license, permit or exemption on a project at the department's discretion.

5) The duration of the lease may not exceed the term of the federal permits and may in no case exceed 55 years.

6) If no acceptable applications are received, the department may reject all bids and proceed to develop the hydroelectric generation facility.

Statute: 85-1-501 through 514, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division

INDOOR EMISSIONS - OCCUPATIONAL NOISE

ASBESTOS CONTROL

1. Types of Activities Regulated

The Montana Department of Environmental Quality (DEQ) has the statutory authority to approve course work for accreditation of persons engaged in asbestos abatement projects, for accreditation of persons engaged in an asbestos-related occupation and for control and issuance of asbestos project permits.

Statute: 75-2-501 *et seq.*, MCA

Rule: ARM 17.74.301-405

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Accreditation Requirements

A person seeking accreditation as an asbestos inspector, an asbestos management planner, an asbestos project designer, an asbestos abatement contractor, an asbestos abatement supervisor, or an asbestos abatement worker must submit a properly completed application form, along with a fee, to the DEQ and complete an asbestos-related training course approved by the department. Accreditation for each of the above asbestos-type occupations must be renewed annually.

Statute: 75-2-502 and 511, MCA

Rule: ARM 17.74.314-316

3. Permitting Requirements and Procedures

1) No person in charge of an asbestos abatement project may perform work on any asbestos-containing material which is an integral part of a continuous

surface exceeding three square feet or three feet of thermal system insulation per year without a permit.

2) Persons applying for a permit must submit, by certified mail, an application to the DEQ. The application should include 1) a description of the project design for the abatement project, 2) a signed statement that all work will be performed according to federal standards, 3) a list of accredited workers, 4) a signed statement that the removed asbestos will be properly disposed of and 5) the required fee.

Statute: 75-2-501 *et seq.*, MCA

Rule: ARM 17.74.335

4. **Fees**

All persons seeking accreditation or application renewal for an asbestos-related occupation must pay a $125 fee, except for asbestos workers, who are charged a $30 fee. Annual asbestos abatement project permit fees are based on the percentage of the contract volume and are described in detail in ARM 17.4.401.

Statute: 75-2-503 and 511, MCA

Rule: ARM 17.74.401

INDOOR AIR QUALITY - OCCUPATIONAL NOISE

1. **Types of Activities Regulated**

The Montana Department of Labor and Industry (DLI) has the authority to regulate occupational exposure to noise and certain hazardous chemicals in work places that are under the jurisdiction of state and local governments. The federal Occupational Safety and Health Administration (OSHA) regulates noise and exposure to certain hazardous chemicals in all privately owned work places. The DLI does not require permits for the operation of machinery that may emit pollutants into an enclosed work area.

Statute: 50-70-112, MCA

Rule: ARM 17.74.101 (occupational noise)
ARM 17.74.102 (occupational air contamination)

Contact: DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

RADIATION CONTROL

1. **Types of Activities Regulated**

The U.S. Nuclear Regulatory Commission licenses users of byproduct materials, source materials and special nuclear materials in Montana. A number of record-keeping and handling requirements apply.

The Montana Department of Public Health and Human Services (DPHHS) has statutory authority to register and regulate machine sources of ionizing radiation (i.e., x-rays, accelerators, etc.). Registration of these machines is required of the owner after acquisition of the machine and prior to its use. Registration forms are available from DPHHS. A number of record-keeping and use requirements also apply.

In addition, the DPHHS has statutory authority to license users of naturally occurring and electronically produced radionuclides but does not operate a licensing program at this time.

Statute: 50-79-201 *et seq.*, MCA

Rule: ARM 37.14.301-302, 306-307 and 37.14.501 *et seq.*

Contact: NUCLEAR REGULATORY COMMISSION

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Quality Assurance Division
Licensure Bureau

RADON CONTROL

1. **Types of Activities Regulated**

Prior to selling any *inhabitable* property, the seller or their agent must provide a designated disclosure statement (see 75-3-606, MCA) alerting the buyer to the existence of naturally occurring radon gas in some buildings in Montana and the associated health risks.

Whenever a seller knows that a building has been tested for radon gas, the seller must provide the buyer with a result of the test and evidence of any subsequent mitigation or testing.

A person who wishes to be publicly listed by the Montana Department of Environmental Quality in a radon-related occupation must pass a proficiency examination administered by the National Environmental Health Association's National Radon Proficiency Program.

Statute: 75-3-601 *et seq.*, MCA (Montana Radon Control Act)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Planning, Prevention and Assistance Division
Air, Energy and Pollution Prevention Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
Regional Office, Denver, CO

MAJOR FACILITY SITING

1. Types of Activities Regulated

A Certificate of Compliance is required from the Montana Department of Environmental Quality (DEQ) for certain major facilities that transmit electricity, transmit fuels and other substances by pipeline or utilize geothermal resources. Associated facilities such as transportation links, transmission substations and other facilities associated with the delivery of energy are included. Prior to certification, the applicant must receive the necessary permits from the DEQ for air emissions; wastewater discharges; the generation, transportation, storage or disposal of hazardous wastes; and other relevant permits administered by the DEQ. Special procedures apply for facilities also subject to the jurisdiction of the Federal Energy Regulatory Commission.

Statute: 75-20-101 *et seq.*, MCA (Montana Major Facility Siting Act)

Rule: ARM 17-20-301, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. Application Requirements

Applications for a certificate under the Montana Major Facility Siting Act (MFSA) must be filed with the DEQ. The information required varies according to the size and type of the facility, but generally includes a description of the proposed facility and its location; baseline data for proposed sites; and alternate site information.

Statute: 75-20-211, MCA

Rule: ARM 17.20.801-807

3. Permitting Procedures

1) The DEQ must notify an applicant within 30 days that the application is either complete or incomplete. If an application is resubmitted, the DEQ then has 15 days to advise the applicant that the application is complete and accepted.

2) Within nine months following acceptance of an application, the DEQ must issue a report that includes the department's studies, evaluations, recommendations and other relevant documents. An Environmental Impact Statement or analysis may be included if there is compelling evidence that the facility construction and operation will have adverse environmental impacts (see MONTANA ENVIRONMENTAL POLICY ACT, p. 114). For a facility that is unlikely to result in adverse environmental impacts, the DEQs decision must be returned in 90 days. Before issuing a decision, the DEQ will provide an opportunity for public review and comment.

3) Construction of a geothermal facility must begin within six years from the date of certification. Linear facilities must be completed within 10 years, except for transmission lines less than 30 miles in length, which must be completed within five years.

4) Decisions of the Board may be appealed to a state District Court. under the contested case provisions of the Montana Administrative Procedures Act (see p. 113).

Statute: 75-20-216, 219, 223, 231, 301, 303, 304 and 406, MCA

Rule: ARM 17.4.501

4. **Fees**

The applicant for a certificate under the MFSA is required to deposit a filing fee based on the estimated cost of the project in an earmarked revenue fund for use by the DEQ to administer the act. A fee schedule is listed in the statute.

Statute: 75-20-215, MCA

5. **Criteria**

The DEQ must issue an opinion and render a decision either granting or denying an application as filed, or granting it with conditions or modifications. The department must grant a certificate to a geothermal facility if it does not pose a threat of serious injury or damage to the environment or area inhabitants. For a linear facility, the DEQ's decision is based on a number of factors, including the nature of probable environmental impacts considering the state of available technology and the nature and economics of the alternatives; that the facility minimizes adverse environmental impacts compared to the alternatives; that the location of the proposed facility conforms to applicable state and local laws; that the facility will serve the public interest, convenience and necessity; that the DEQ has issued all necessary decisions, opinions, orders, certifications and permits; that the use of public lands for location of the facility is evaluated and public lands are selected whenever their use is as economically practicable as the use of private lands; and for certain types of applications, that there is a need for the facility. The DEQ must deny the certificate if the above findings can not be made.

The DEQ must waive the requirement for alternative site studies and the finding of minimum adverse environmental impact when a facility is proposed for construction in a county that has experienced severe unemployment problems because of plant closure.

Statute: 75-20-301 and 304, MCA

6. **Definition of Facility and Exceptions**

Under the MFSA, a facility is:

1) An **electric transmission line** and associated facilities with a capacity of more than 69 kilovolts. The definition of facility *does not include* electric transmission lines with a capacity of 230 kilovolts or less and 10 miles or less in length; electric transmission lines with a capacity of more than 69 kilovolts but less than 230 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more

than 75% of the owners who collectively own more than 75% of the property along the centerline; and, electric transmission lines that are less than 150 miles in length and extend from an electrical generation facility to a regional transmission grid at an existing transmission substation or other facility for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline.

2) A **pipeline** greater than 25 inches in inside diameter and 50 miles in length, and associated facilities, *except for* pipelines within the boundaries of the state that are used exclusively for the irrigation of agricultural crops or for drinking water; or pipelines greater than 25 inches in inside diameter and 50 miles in length for which the person planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline.

3) A **pipeline** greater than 17 inches in inside diameter and 30 miles in length, and associated facilities used to transport coal suspended in water.

4) A **geothermal resource** or addition designed for or capable of producing geothermally derived power equivalent to 25 million Btu's per hour or more *except for* pollution control facilities approved by the department and added to an existing plant.

5) A plant, unit, or other **facility** or addition **subject to the jurisdiction of the Federal Regulatory Energy Commission** capable of generating 50 megawatts of hydroelectric power or more.

Statute: 75-20-104(8), MCA

7. **Additional Information**

The DEQ may not issue a certificate to construct a nuclear facility in Montana unless it meets the stringent criteria specified in 75-20-1203, MCA. All nuclear facilities must be subject to a public referendum in order to be approved.

PIPELINES

Pipelines with inside diameters greater than 25 inches that are 50 miles long, with some exceptions, or coal slurry pipelines greater than 17 inches in inside diameter and 30 miles

in length are regulated by the Montana Major Facility Siting Act. Aspects of other pipeline projects may be covered by statutes listed under UTILITIES (p. 155).

WATER POLLUTION DISCHARGE PERMITS

Industrial and commercial operations often require wastewater discharge permits from the Montana Department of Environmental Quality. See WATER QUALITY PERMITTING, p. 177.

WIND ENERGY

1. Types of Activities Regulated

A person constructing a wind energy facility must first obtain an easement from the appropriate property owner to ensure an undisturbed flow of wind across that property. If the affected property owner is the Montana Department of Natural Resources and Conservation, the use of that land may be subject to permits, leases or easements from the department and approval from the Board of Land Commissioners.

Associated activities that affect air or water quality may require permits from the Montana Department of Environmental Quality (DEQ) (see AIR QUALITY PERMITS, p. 32; and WATER QUALITY PERMITTING, p. 177). Activities that affect migratory bird populations are subject to the provisions of the federal Migratory Bird Treaty Act (see p. 85).

A person who proposes to construct an energy-related project not considered a facility pursuant to 75-20-104(8) may petition the DEQ to review the project under the provisions of the Major Facility Siting Act.

Statute: 70-17-303, MCA (wind energy easement)
77-1-301, MCA (DNRC easements, licenses and permits)
75-20-101 *et seq.*, MCA (Montana Major Facility Siting Act)

Rule: ARM 36.25.104 *et seq.*(DNRC easements, licenses and permits)
ARM 17.20.101 *et seq.* (facility siting)

Contact: PROPERTY OWNER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

U.S. FISH AND WILDLIFE SERVICE
Montana Office, Helena

FORESTRY

BURNING PERMITS

1. **Types of Activities Regulated**

   A. Burning Permits: During the forest fire season (May 1st - September 30th, or as extended), permits are required from the recognized protection agency for the area (county, state or federal) to ignite or set an open fire within forest lands. A permit is not required in a designated, improved campground.

   B. Air Quality Permits for Burning: Air quality permits for major burns (open burning of approximately 100 acres in a given year) are required from the Montana Department of Environmental Quality (DEQ). All open burners, major and minor, must comply with restrictions issued from September 1st through November 30th on the Ventilation Hotline (1-800-225-6779) or at the Monitoring Unit's web site at http://www.smokemu.org. Open burning is prohibited by the DEQ from December through February. See AIR QUALITY PERMITS, p. 32.

   The DEQ may issue conditional air quality open burning permits for certain materials, including clean untreated wood waste at landfills and industrial sources, as well as the burning of prohibited materials for the training of firefighters, or open burning in emergency situations, if certain departmental requirements set forth in ARM 17.8.611-612 are followed.

   C. Local authorities may require burning permits in addition to the state permit. Several counties require permits to burn any time during the year to protect air quality and prevent fires.

Statute: 7-33-2205 and 76-13-121, MCA

Rule: ARM 17.8.601 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Land and Unit Offices (see APPENDIX 2)

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Fire and Aviation Management Bureau

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

COUNTY SHERIFF OR BOARD OF COUNTY COMMISSIONERS

2. **Fees**

Open burning permits fees are calculated by the department. Contact the DEQ.

Rule: ARM: 17.8.514

CABIN SITES

1. **Types of Activities Regulated**

Leases for cabin sites on state forest lands may be obtained from the Montana Department of Natural Resources and Conservation, Trust Land Management Division. Department rules govern the use and maintenance of these sites.

Statute: 77-1-208, MCA

Rule: ARM 36.11.101

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

HAZARD REDUCTION

1. **Types of Activities Regulated**

Before conducting any timber cutting or timber stand improvements on private lands or right-of-way clearing on private forest lands, the person conducting the work must be issued an exemption certificate or enter into a fire hazard reduction agreement with the Department of Natural Resources and Conservation (DNRC) except where a minimum

slash hazard exists. Exemption certificates are issued for lands that are within the exterior boundary of an incorporated town and release the applicant from the requirements for slash and hazard reduction. Applicants entering into fire hazard reduction agreements must pay administrative fees and post a bond to cover the potential cost to the DNRC in case of default of abatement measures. The department will issue a certificate of clearance and return the bond when the fire hazard has been appropriately reduced and the agreement for reduction of fire hazard has been executed. The DNRC must be notified at least 10 days prior to any clearing for right-of-way.

Statute: 76-13-401 through 415, MCA

Rule: ARM: 36.11.221-232

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Land and Unit Offices (see APPENDIX 2)

Forestry Division
Service Forestry Bureau

REMOVAL OF NONCOMMERCIAL OR SMALL QUANTITY TIMBER

1. Types of Activities Regulated

Permits are required from the Montana Department of Natural Resources and Conservation for the removal of dead or inferior timber from state forests. If the dead or inferior timber is on county forests, a permit is required from the Board of County Commissioners.

Permits may also be issued, without advertising the sale, to Montana citizens for commercial cutting, at commercial rates, for timber on state or county forests in quantities less than 100,000 board feet, or in cases of emergency due to fire, insects or blow-down, in quantities less than 200,000 board feet.

Both the Bureau of Land Management and the U.S. Forest Service require permits for fuel wood and Christmas tree cutting on BLM lands and national forest lands.

Statute: 7-8-2608, 2609 and 77-5-212, MCA

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Resource Area or Field Office

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

2. **Fees**

Fees for commercial cutting of small quantities of timber on state lands are set by the DNRC or established by the department through competitive bidding.

Statute: 77-5-201, MCA

STREAMSIDE MANAGEMENT ZONES

1. **Types of Activities Regulated**

While no permit is required to conduct forest practices in streamside management zones, special management standards do apply within and to varying widths on either side of a stream, lake or other water body. The practices of broadcast burning, clearcutting, road construction (except when necessary to cross a stream or wetland), the operation of vehicles, use of hazardous or toxic materials and the deposition of slash or sidecasting of road materials are prohibited, except as provided for by alternative practices approved by the Montana Department of Natural Resources and Conservation.

Statute: 77-5-301 through 307, MCA

Rule: ARM 36.11.301-310

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Service Forestry Bureau

TIMBER CONSERVATION LICENSE

1. Types of Activities Regulated

The Montana Department of Natural Resources and Conservation (DNRC), under the direction of the Board of Land Commissioners, may issue a timber conservation license in lieu of the sale of timber on state trust lands (see TIMBER SALES, p. 57). The successful applicant for a license must furnish a surety bond and pay fees for forest improvement.

Statute: 77-5-208, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

2. Application Requirements

During the environmental review process (see MONTANA ENVIRONMENTAL POLICY ACT, p. 114) for a proposed timber sale, the applicant for a timber conservation license must submit a written request to the DNRC to defer the sale or a portion of the sale. If the request is not received before the completion of the review process, the department may not issue a license.

3. Permitting Procedures

Once the DNRC receives a written request, it will prepare the sale for consideration by the Board using the alternatives of the sale with and the sale without the timber conservation license. The DNRC will solicit bids for each alternative to ensure that full, fair market value for the sale is secured.

TIMBER HARVESTS/BEST MANAGEMENT PRACTICES

1. Types of Activities Regulated

Timber owners and operators must notify the Montana Department of Natural Resources and Conservation (DNRC) prior to conducting a forest practice. Forest practices include timber cutting, road construction or reconstruction, site preparation, reforestation or management of logging slash.

Within five working days of receiving notification of a forest practice, the DNRC will provide the operator with information on forestry Best Management Practices (BMPs) and issue a notice that the forest practice may proceed or request an on-site consultation. The department encourages the use of BMPs to protect and conserve water, range, soil and forest resources.

Statute: 76-13-101, 104(3) and 131 through 135, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Service Forestry Bureau

TIMBER SALES

1. Types of Activities Regulated

Timber sales on state forest lands are administered by the Montana Department of Natural Resources and Conservation (DNRC) and final approval is granted by the Board of Land Commissioners. See also TIMBER CONSERVATION LICENSE, p. 56.

Statute: 77-5-201 through 223, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

2. Application Requirements

1) Timber proposed for sale in excess of 100,000 board feet must be advertised in a newspaper in the county in which the timber is located for a period of at least 30 days, during which time the DNRC can receive sealed bids up to the hour of the bid closing, as specified in the notice.

2) In cases of emergency due to fire, pest or blow-down or in cases when the department must act immediately to take advantage of access granted by permission of an adjoining landowner, a sale of up to 1 million board feet may be advertised for not less than 10 days. In cases when the department must act immediately to take advantage of access granted by permission of an adjoining landowner and there is only one potential buyer with legal access, the department may negotiate a sale of timber not in excess of 1 million board feet without offering the timber for bid if the sale is for fair market value.

3) On the award of sale, the purchaser must execute a formal agreement, approved by the Board, which describes the area where the timber is to be cut, the approximate quantity to be cut, by species, and the rate for each product of each species. The purchaser also is required to furnish a bond to the state in an amount equal to at least five percent of the estimated value of timber sold.

Statute: 77-5-201 *et seq.*, MCA

3. **Fees**

Live timber must not be sold for less than fair market value. The minimum value is appraised under the direction of the department and approved by the Board of Land Commissioners. The Board also approves fees for forest improvement on state lands. Contact the DNRC for fee amounts.

Statute: 77-5-204, MCA

4. **Additional Information**

A detailed bill of sale is required before more than five coniferous trees may be transported over state highways. Also, transportation of more than 200 pounds of boughs from coniferous trees requires written authorization of the owner of the boughs.

Statute: 76-13-601, MCA

HIGHWAY ADVERTISING

1. Types of Activities Regulated

A permit is required from the Montana Department of Transportation (MDT) for placing outdoor advertising signs along or within site of the right-of-way of interstate and primary highways. Standards for maintenance of permitted advertising are outlined in the statutes and rules.

Statute: 75-15-101 *et seq.,* MCA (Outdoor Advertising Act)

Rule: ARM 18.6.201-272

Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices (see APPENDIX 2)

2. Application Requirements

The application for an outdoor advertising permit must be completed on forms furnished by the MDT. The owner of the land affected must agree to the erection or maintenance of the advertising sign. A permit is required for each sign site.

Statute: 75-15-122(1), MCA

Rule: ARM 18.6.211

3. Fees

The MDT requires an initial application fee and a fee for a renewable three year permit based on the square footage of the sign.

Statute: 75-15-122, MCA

Rule: ARM 18.6.211 and 18.6.214

Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices (see APPENDIX 2)

HIGHWAY APPROACH PERMITS

1. Types of Activities Regulated

Permits are required from the Montana Department of Transportation (MDT) for the construction of driveways and other approaches intersecting public streets and highways.

Statute: 60-2-201, MCA

Rule: ARM 18.5.104 *et seq.*

Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices (see APPENDIX 2)

2. Application Requirements

An application for an approach permit must be made by the owner of the property being served, the contract purchaser or the owner of a long term lease with more than five years remaining on the lease, or their authorized agents. These permits are only for the purpose of securing or changing access to the property. A brief description of the proposed work, location and a plot plan must be included in the permit application. If the district engineer determines that the approach will have a significant impact, the applicant may be required to include an Environmental Impact Statement (EIS) (see MONTANA ENVIRONMENTAL POLICY ACT, p. 114) or traffic study with the approach application. No more than two approaches will be approved for any single property tract or business establishment. Exceptions may be made where the frontage exceeds 500 feet or special conditions exist that may benefit the traveling public.

Rule: ARM 18.5.104 and 105

3. Permitting Procedures

1) A request for a permit to construct or reconstruct a residential, commercial, industrial, public street or road approach should be made to the district engineer having jurisdiction over the area.

2) Upon receipt of the request, the district engineer will arrange for a meeting with the applicant in order to discuss the proposed approach.

3) The district engineer and the district traffic engineer have authority to approve curb cuts and public and private approaches, subject to all access control resolutions and/or MDT ownership of same.

Rule: ARM 18.5.104

HIGHWAY ENCROACHMENTS - OCCUPANCY PERMITS

1. Types of Activities Regulated

Encroachment permits are issued by the Montana Department of Transportation (MDT) for construction or maintenance of encroachments on or under highway rights-of-way. Agreements for occupancy or common use showing the conditions of the right-of-way occupancy may also be obtained from the MDT for encroachments on or across state highway rights-of-way. Encroachments include all private structures, devices and facilities placed on, over or under the right-of-way, including ditches, dikes, flumes, canals or bridges. Public utility facilities such as water, sewer, electric, natural gas and communications lines may occupy highway rights-of-way by occupancy agreement with the MDT.

Similar permission is required from the Board of County Commissioners for any work on county roads or rights-of-way.

2. Permitting Procedures

The appropriate permit may be obtained from one of the five MDT district offices (see APPENDIX 2).

Statute: 7-14-2139, MCA

Rule: ARM 18.7.101-108 (private occupancy of highway rights-of-way)
ARM 18.7.201-241 (utility occupancy of highway rights-of-way)

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF TRANSPORTATION
Engineering Division; or
District and Area Offices (see APPENDIX 2)

See also HIGHWAY UTILITY EASEMENTS, p. 155.

ROADSIDE JUNKYARDS

1. Types of Activities Regulated

The Montana Department of Transportation (MDT)may issue a license for a junkyard situated within 1,000 feet of a primary or interstate highway if the facility is screened from view or not visible from a main traveled course, located within an area zoned for industrial use, or located within an unzoned area the MDT has defined as industrial based on actual uses. Junk includes scrap metals, rags, debris, etc. MOTOR VEHICLE WRECKING FACILITIES (see p. 140) and garbage dumps or sanitary landfills (see SOLID WASTE DISPOSAL, p. 142) are licensed by the Montana Department of Environmental Quality.

Statute: 75-15-201, *et seq.* MCA

Contact: DEPARTMENT OF TRANSPORTATION
Engineering Division
Right of Way Bureau

HUNTING - FISHING - TRAPPING - WILD LANDS & WILDLIFE PROTECTION

The Montana Department of Fish, Wildlife and Parks is charged with the regulation of fishing, hunting, trapping and wildlife protection and issues all hunting, trapping and fishing permits and licenses in Montana, with the exception of aerial hunting permits (Montana Department of Livestock, see below) and licenses for outfitters and professional guides (Montana Department of Labor and Industry, see p. 72).

The Montana Fish, Wildlife and Parks Commission establishes hunting and fishing seasons and restricts hunting, trapping and fishing in certain areas.

Depending on the type and location of an activity, more than one permit may be required. For example, anyone hunting on a shooting preserve must have the appropriate hunting license as well as a shooting preserve permit. Please check all sections that may apply to a proposed activity, and contact the appropriate state agency.

COMMERCIAL ACTIVITIES

AERIAL HUNTING OF PREDATORY ANIMALS

1. **Types of Activities Regulated**

An individual planning to conduct an aerial hunt must first obtain a permit from the Montana Department of Livestock (DOL), with the exception of 1) government employees acting within the scope of their employment, or 2) resident landowners hunting on their own property who have followed the notification requirements of the DOL.

Statute: 81-7-101, 501 and 505, MCA

Contact: DEPARTMENT OF LIVESTOCK
Predator Control

2. **Application Requirements**

To obtain an aerial hunting permit, an applicant must complete the required forms available from the DOL. The permit must show the species of predator and the geographic areas that will be hunted. Permits will be issued only to individuals resident and living in Montana. Nonresident permits may be authorized by the Board of Livestock. Applicants must also be currently licensed as pilots by the Federal Aviation Administration (FAA), must minimally have a private pilot's license and 200 flying hours and the applicant and their aircraft must meet FAA and Montana Department of Transportation requirements.

Rule: ARM 32.22.102

Contact: DEPARTMENT OF LIVESTOCK
Predator Control

DEPARTMENT OF TRANSPORTATION
Aeronautics Division

3. **Fees**

The DOL issues permits valid for a period of one to three years. Permit fees are $30 for less than one year, $40 for one to two years and $50 for two to three years. The DOL may also issue self-renewing multiple year permits dependant upon compliance with the rules and state law.

Rule: ARM 32.22.103

ALTERNATIVE LIVESTOCK RANCHES/GAME FARMS

1. **Types of Activities Regulated**

A person may not operate an alternative livestock ranch in Montana without a license obtained from the Montana Department of Fish, Wildlife and Parks (FWP) prior to November 7, 2000. No new licenses may be applied for or granted. Existing alternative livestock ranches must comply with all applicable laws and rules administered by the Montana Department of Livestock (DOL)relating to marking, inspection, importation and interior facilities, transportation and health of the animals. See also ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS, p. 74.

Statute: 87-4-406 *et seq.*, MCA

Rule: ARM 12.6.1520 *et seq.* (licensing)
ARM 32.4.101 *et seq.* (marking, inspection and animal health)

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

DEPARTMENT OF LIVESTOCK
Animal Health Division

2. **Renewal Fees**

Number of Animals	Renewal Fee
1 to 20 animals	$100
21 to 60 animals	$200
More than 60 animals	$400

Statute: 87-4-411, MCA

The DOL also assesses a fee, not to exceed $50, for each alternative livestock imported into the state.

3. **Additional Information**

Licensees must keep and maintain for three years written records of all alternative livestock purchases, transfers, sales, births and deaths. The information must be reported to FWP as scheduled.

An alternative livestock ranch license for a specific facility is not transferable.

The shooting of game animals or alternative livestock for a fee or other compensation on an alternative livestock ranch is not allowed.

Statute: 87-4-414 and 417, MCA

COMMERCIAL FISHING

1. **Types of Activities Regulated**

A permit from the Montana Department of Fish, Wildlife and Parks (FWP) is required to harvest fish for sale or commercial purposes. Commercial harvest of whitefish by anglers with hook and line or rod may be authorized in waters specified by the Fish, Wildlife and Parks Commission. The taking of whitefish by seine or net is restricted to the Kootenai River and portions of its tributaries, requires a $1,000 bond and is regulated by the Commission.

Statute: 87-3-204 and 87-4-601, MCA

Rule: ARM 12.7.101

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. **Application Requirements**

An applicant for a commercial fishing license must submit their name and address, information about the waters they plan to fish, the types of fish harvested, and the equipment that will be used. There are three classes of permits for commercial fishing: Class A for taking all nongame species designated by FWP for commercial purposes, Class B for taking all designated nongame species except smallmouth buffalo and largemouth buffalo, and Class X to be granted for one year only to take specific nongame species on an experimental basis.

Rule: ARM 12.7.101 and 103

3. **Permitting Procedures**

The department requires permittees to keep records of operations relating to the taking, sale or disposal of fish and to provide records within 30 days following the end of each month. All species not authorized in the permit must be released alive and unharmed to the waters from which they came. All waters but Fort Peck are limited to one commercial fishing operation unless FWP determines that a larger catch would be beneficial. The department may impose special conditions regarding gear, limits, seasons, closures, etc. on any water. Existing anglers receive priority for retaining present permits.

Rule: ARM 12.7.102, 104 and 105

4. **Fees**

The fee for a Class A permit is $500 and for a Class B permit, $200. There is no charge for a Class X permit.

Rule: ARM 12.7.103

FIELD TRIAL PERMIT

1. **Types of Activities Regulated**

A permit from the Montana Department of Fish, Wildlife and Parks (FWP) is required to conduct a field trial to determine if a dog can point, flush or retrieve game birds.

Statute: 87-4-915, MCA

Rule: ARM: 12.6.1606

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. **Application Requirements**

To obtain a field trial permit, an applicant must submit a written application on a form provided by FWP. The application must include the applicant's name and address, the name and address of any national affiliate, the location of the proposed field trial, whether live birds will be used and any other related information requested by the department.

3. **Permitting Procedures**

The application must be presented 20 days or more before the date of the proposed trial. The department director may deny the permit if it is determined that approving the application is not in the best interests of the protection, preservation, propagation and conservation of game birds in the state. If denied, a notice must be mailed to the applicant within 10 days of receipt of the application and must state the reasons for the denial.

4. **Additional Information**

If an application is granted, the applicant must flush all wild game birds from fields used for the field trial each day before the trial begins. Dogs are not permitted to run free in fields that have not been carefully flushed.

All live game birds used in a field trial must be tagged before being planted or released. Birds may only be planted and released in the presence of a FWP representative. If an untagged bird is shot, the permit holder must immediately replace it with a live bird.

FISH PONDS

1. **Types of Activities Regulated**

A permit is required from the Montana Department of Fish, Wildlife and Parks (FWP) to stock fish in a pond. The permit entitles the holder to stock the pond with fish from a lawful source.

A commercial pond license is required to sell fish, eggs or fry from a private pond. The permit holder must furnish a $500 surety bond conditioned to the effect that the licensee will not sell fish or spawn from public waters or violate the conditions of the license.

Statute: 87-4-603, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. Application Requirements

An applicant for an instream private fish pond must provide reliable information to FWP to verify that the tributary, spring or stream does not support game fish or species of special concern and does not pose an unacceptable risk to these species in adjacent waters.

A commercial pond licensee must keep accurate records of the species and quantities of fish or eggs sold or purchased, the dates of sale or purchase, the names of purchasers or sellers, and the locations to or from which fish or eggs were transferred. The licensee must report to the department annually.

3. Permitting Procedures

The department will designate the species of fish that may be stocked and may condition the license to require measures to prevent fish from escaping into adjacent waters. Private pond and commercial pond licenses are issued to an individual and are not transferable. Private pond licenses do not have to be renewed annually. Commercial pond licenses require annual reports as noted above and expire on January 31st of each year.

A license may be revoked for failure to operate or use the pond according to the terms or conditions of the license or state statutes, rules or orders covering importation, transportation, or introduction of fish or eggs.

Statute: 87-4-606 and 607, MCA

4. Additional Information

The department may, under reasonable conditions and after notifying the landowner, inspect the pond for illegally stocked fish or diseases. Also, the license holder may request an inspection by the department.

FISHING DERBIES OR TOURNAMENTS

1. Types of Activities Regulated

A permit from the Montana Department of Fish, Wildlife and Parks (FWP) is required to offer or give a prize, gift or anything of value for the taking of any fish that is protected by the state. An event with an entry fee or where 30 or more people are expected to compete for prizes or cash worth $500 or more for the capture of an individual fish or combination of fish must be permitted.

Statute: 87-3-121, MCA

Rule: ARM 12.7.801

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. Application Requirements

Any individual or organization that plans to sponsor a fishing contest on waters open to public fishing must submit an application to FWP prior to July 1st for ice fishing contests and prior to November 1st for open waters contests. A fishing contest application will be evaluated based on 1) the impacts on fish populations, the aquatic ecosystem and the immediate area; 2) the compatibility with fish management objectives for the water; 3) purse or participation limits (limits may or may not be imposed based on public comment); 4) conflicts with other contests proposed or approved; and 5) compliance with reporting requirements for previously sponsored events.

Rule: ARM 12.7.802-804

3. Permitting Procedures

Once the application is received, FWP will provide an opportunity for public comment. For competing applications, the department will approve applications that offer the best opportunities for public benefits, have been approved historically, have had good participation and have a good record of compliance. The department will approve, approve with modifications or deny the application by February 1st for open water contests and by October 1st for ice fishing contests.

The sponsor of a fishing contest must submit a report to FWP within 30 days after the contest. The report must include the number of participants, the number of fish caught, the

length and weight of the winning fish, or the average length and aggregate weight of the winning fish and the number of fish caught and released. The department may require more detailed catch information.

Rule: ARM 12.7.804-806

FUR DEALERS

1. Types of Activities Regulated

A person, firm or corporation that buys, sells, trades or deals in skins or pelts of fur-bearers or predators must secure a fur dealer's license from the Montana Department of Fish, Wildlife and Parks. The license is issued annually and expires April 30th of each year.

Statute: 87-4-301, 303 and 305, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Fees

The license fee for a resident fur dealer is $10 and for a fur dealer's agent (buyer), $10. The fee for a nonresident fur dealer's license is the same as the fee charged for a nonresident fur dealer's license in the applicant's state of residence. If the nonresident's state does not issue a nonresident fur dealer's license, the fee is $50.

Statute: 87-4-304, MCA

FUR FARMS

1. Types of Activities Regulated

No person may own, control or propagate furbearers for sale or sell furbearers or the parts thereof unless they hold a current fur farm license issued by the Montana Department of Fish, Wildlife and Parks.

Statute: 87-4-1002 and 1005, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. **Application Requirements**

An applicant for a fur farm license must submit a written application to FWP which includes the person's name and address, the species of furbearers and any plans for propogation, the legal description of the land, the type of fence for enclosure and the source of the furbearers. The license expires on January 31st following the date issued.

A fur farm license will only be issued to a responsible applicant who owns or leases the premises where the operations will be conducted. A nonresident fur farm owner must have a resident agent who is responsible for the daily operations of the fur farm and who is authorized by the nonresident owner to receive service of process.

Statute: 87-4-1003, MCA

3. **Permitting Procedures**

Within 30 days of receiving the application, the department must notify the applicant of its decision to approve or deny the application. If the application is denied, the department must specify the reasons for the denial.

4. **Fees**

The initial fee for a fur farm license is $25 and the renewal fee is $15.

Rule: ARM 12.6.1701

GAME BIRD FARMS

1. **Types of Activities Regulated**

No person may own, control or propagate game birds unless they hold a current game bird farm license issued by Montana Department of Fish, Wildlife and Parks (FWP) with the exception of 1) a person who possesses game birds but does not sell the birds and who is provided written authorization from FWP, or 2) a person who has a migratory game bird avicultural permit (see p. 85).

Statute: 87-4-901 through 916, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Application Requirements

An applicant for a game bird farm license must submit an application to FWP that includes that person's name and address, the species of game bird and plans for its propagation, the legal description of the proposed game bird farm location, the type of fence or enclosure and the source of the game birds. If the applicant is a nonresident owner, they must provide the name and address of a local resident agent. The resident agent must be responsible for the daily operation of the farm and be authorized by the nonresident owner to receive service of process.

A game bird farm license will only be issued to a responsible applicant who owns or leases the premises where the operations will be conducted and who has properly fenced or otherwise enclosed the area. The license expires on January 31st following the date issued.

3. Permitting Procedures

Within 30 days of receiving the application, FWP must notify the applicant of its decision to approve or deny the permit. If the application is denied, the department must specify the reason for denial.

4. Fees

The initial fee for a game bird farm license is $25 and the renewal fee is $15.

Rule: ARM 12.6.1601

OUTFITTERS AND GUIDES

1. Types of Activities Regulated

An individual who intends to provide services as an outfitter, guide or professional guide must obtain a license from the Montana Department of Labor and Industry, Board of Outfitters.

A guide or professional guide is endorsed by and works under the supervision of a licensed outfitter. An outfitter may not hire a guide or professional guide who does not hold a valid license. When an outfitter endorses a guide or professional guide's application for licensure, the outfitter is attesting to that guide's qualifications. Licenses for outfitters must be renewed by December 31st each year and guides and professional guides are licensed throughout the year.

Permission and any needed permits from landowners (private, state or federal) must be provided to the Board before an individual is licensed, or if licensed, immediately on receipt.

Statute: 37-47-101(8), 301 and 308, MCA

Rule: ARM 8.39.501 *et seq.*

Contact: DEPARTMENT OF LABOR AND INDUSTRY
Business Standards Division
Board of Outfitters

2. **Application Requirements**

A. First Time Outfitter License: An outfitter's license will be issued to an applicant who has demonstrated that they meet the qualifications necessary to provide the services listed on the application, successfully passed the required examination and filed an operations plan that has been approved by the Board.

B. Guide or Professional Guide: An applicant for a guide's or professional guide's license must meet the qualifications designated by the Board of Outfitters and submit a completed license application. The application must include the signature of the endorsing outfitter. Applicants must provide current proof of first aid certification.

Statute: 37-47-302 through 305 and 311, MCA

Rule: ARM 8.39.501-505 and 514-515

3. **Permitting Procedures**

A. Outfitters: Prior to taking the outfitter exam, the outfitter must meet the experience requirement, submit an operations plan and have the facilities and equipment described in the plan inspected. Once these criteria are met, the license applicant may take the exam. If the application is denied, the Board will notify the applicant of the denial and the reasons for the denial. If the deficiencies are corrected, a license will be issued on reapplication.

B. Guide's License: The employing outfitter must confirm that the applicant for a guide's license meets all qualifications. If approved, the license is mailed to the employing outfitter, who endorses and dates the license. A guide is not considered licensed until the license is in hand.

Statute: 37-47-307, 308 and 341, MCA

Rule: ARM 8.39.503, 505, 514 and 804

4. **Fees**

The Board charges fees for new, amended and renewed licenses; operations plans and plan amendments; number of clients served each year; and an additional fee for hunting camps added after January 1, 1999, to support the licensing program. Please check the statutes and rules for fee amounts or contact the Board.

Statute: 37-1-134, 37-47-306 and 318, MCA

Rule: ARM 8.39.518 and 801

6. **Additional Information**

Net Hunter Use: A *net client hunter use* designation is assigned to each licensed outfitter based on the most actual clients served by an outfitter in a year no later than December 31, 1995. An outfitter may not expand net hunter use without first receiving approval from the Board of Outfitters.

Statute: 37-47-201, 316 and 317, MCA

Rule: ARM 8.39.804

ROADSIDE MENAGERIES - WILD ANIMAL MENAGERIES - ZOOS - POSSESSION OF WILD ANIMALS

1. **Types of Activities Regulated**

A. A permit is required from the Montana Department of Fish, Wildlife and Parks (FWP) for the following:

❶ **Roadside menageries** that keep one or more wild animals, birds or reptiles in captivity to exhibit or attract trade. Exhibits by educational institutions or a circus based outside of Montana are not included;

❷ **Wild animal menageries** where one or more large bears or cats are kept in captivity for use other than public exhibition; and

❸ **Zoological gardens** operating as nonprofit corporations or accredited by the American Zoo and Aquarium Association and operating for the purpose of exhibiting wild animals.

Permits expire on December 31st and may be renewed by paying an annual fee and submitting a renewal application. Renewal applications for all roadside menageries and wild animal menageries must include an accounting of all wild animals on the facility.

B. It is unlawful to possess a skunk, fox, raccoon or bat except as part of a fur-bearing enterprise, zoo or for scientific research. Animals possessed for six months prior to January 1, 1982 are exempt.

Statute: 87-4-801 through 804, MCA
50-23-102, MCA

Rule: ARM 12.6.1301-1309

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (menageries and zoos)

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Communicable Disease Control and Prevention Bureau (possession of foxes, skunks, bats or raccoons)

2. **Application Requirements**

An application for a roadside menagerie, wild animal menagerie or zoo permit is submitted by completing forms provided by FWP. No permit will be issued until the department verifies that the animals will be cared for and the public protected. No permit can be issued or renewed for a roadside menagerie until it is covered by an insurance policy to cover accidents on the premises.

Statute: 87-4-803, MCA

Rule: ARM 12.6.1308

3. Fees

The annual permit fee for five or fewer animals is $10. The annual fee for more than five animals is $25.

Statute: 87-4-803, MCA

SEINING

1. Types of Activities Regulated

A permit is required from the Montana Department of Fish, Wildlife and Parks to seine for or otherwise capture any nongame bait fish in lakes, streams or other bodies of water (except licensed private ponds) for sale or commercial purposes, or to transport these bait fish within the state. Carp, goldfish and rainbow smelt may not be harvested or used as bait fish. Seining nets may not exceed 12 feet by four feet.

Statute: 87-3-203 through 205 and 87-4-602, MCA

Rule: ARM 12.7.201

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division
Regional Offices

2. Application Requirements

The applicant for a commercial seining license must submit a form provided by the department stating their name and address, the waters desired for seining and the purpose for which the bait fish are being seined. Licenses expire on December 31st.

Rule: ARM 12.7.201-202

3. Fees

The fee for a commercial seining license is $10.

Rule: ARM 12.7.201(2)

4. **Additional Information**

Bait fish may not be imported into or exported from the state of Montana for commercial or other purposes by a licensee or other person unless permitted by FWP.

It is unlawful to transport live fish away from the body of water from which the fish were taken unless you are a licensed commercial seining operator or within the boundaries of the Eastern Montana Fishing District.

Statute: 87-3-111, MCA

Rule: ARM 12.7.201(5)

SHOOTING PRESERVES

1. **Types of Activities Regulated**

The Montana Department of Fish, Wildlife and Parks (FWP) issues operating licenses or permits for shooting preserves. All persons hunting on shooting preserves must have a valid resident or nonresident upland game bird license or a three day nonresident shooting preserve bird hunting stamp. Game that may be artificially propagated and hunted on a preserve is limited to ring-necked pheasants with no color mutations, chukar partridges, Hungarian partridges, Merriam's turkeys and other species set forth by FWP. The season for shooting preserves is September 1st through March 31st.

Statute: 87-2-404, 87-4-501 through 504 and 522, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. **Criteria**

Each shooting preserve is restricted to not more than 1,280 contiguous acres. No preserve may be located closer than 10 miles from another preserve or in areas that will substantially reduce hunting areas available to the public. The exterior boundary of each shooting preserve must be clearly defined and posted with signs erected around the extremity at intervals of 250 feet or less.

Statute: 87-4-502, MCA

3. Additional Information

All artificially propogated upland game birds released must be at least 14 weeks of age and must be marked prior to release in a manner that distinguishes them from wild birds. The department will furnish self-sealing pheasant tags to licensed shooting preserve operators for 10 cents each. All harvested game must be tagged prior to removal from or consumption on the premises.

Statute: 87-4-522 and 525, MCA

Rule: ARM 12.6.1201

4. Fees

Fees for shooting preserve operating licenses or permits are $100 per year for the first 320 acres of shooting preserve area, plus $40 per year for each additional 160 acres or portions thereof.

Statute: 87-4-503, MCA

TAXIDERMY

1. Types of Activities Regulated

A person in the business of making mounts of, preserving or preparing dead wildlife or its parts must have a license from the Montana Department of Fish, Wildlife and Parks. A written record must be kept of all wildlife in the licensee's possession or control. The record should include information on who owns the wildlife, the kind and number of species, all articles of wildlife shipped and to whom, etc. A state game warden may inspect the records of a taxidermist at any reasonable time.

Statute: 87-4-201, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Fees

A taxidermy license is $50.

WILDCRAFTING

1. Types of Activities Regulated

A person or organization collecting or transporting wild plant material for commercial purposes must have in their possession a bill of sale, a signed permission form, or a permit from the landowner of the property from which the plants are taken. Another permit issued by a land management or government agency may be valid in lieu of the wildcrafting permit. A permit or written permission are not required for a landowner to harvest wild plants on their own land or for a person to collect the amount of plant material that the landowner or other jurisdictional entity determines is for incidental or personal use.

Statute: 76-10-101 *et seq.*, MCA

Contact: PROPERTY OWNER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division; or

FEDERAL LAND MANAGEMENT AGENCY

2. Application Requirements

The written permission form or permit must include the beginning and end dates for which the permission or permit are valid; basic information about the landowner, the permit or permission holder and the plants that will be wildcrafted; a description of the location of the activity; and the license plate number of the vehicle used for wildcrafting.

3. Additional Information

A buyer of wildcrafted plant material must keep records with specific information outlined in state law about purchases or acquisitions for three years.

Statute: 76-10-105, MCA

FISHING, HUNTING AND TRAPPING LICENSES

1. Types of Activities Regulated

All persons wishing to pursue, hunt, trap, take, shoot or kill any game animal, game bird or fur-bearing animal must have a license from the Montana Department of Fish, Wildlife and Parks.

Statute: 87-2-103, MCA
87-2-301 *et seq.*, MCA (fishing licenses)
87-2-401 *et seq.*, MCA (game bird licenses)
87-2-501 *et seq.*, MCA (game animal licenses)
87-2-601 *et seq.*, MCA (trapping licenses)
87-2-701 *et seq.*, MCA (special licenses)

Rule: ARM 12.3.101-175 and 402-406

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Administration and Finance Division

2. Application Requirements

An applicant for a hunting, fishing or trapping license must first acquire a wildlife conservation license. Wildlife conservation, hunting, trapping or fishing licenses can be obtained at a private sector license agent, at Montana Department of Fish, Wildlife and Parks' offices or applications are available on the department website at http://www.fwp.state.mt.us. Annual hunting and fishing licenses expire on the last day of February, and trapping licenses on the last day of June.

Statute: 87-2-106 and 201, MCA

3. Permitting Procedures

General hunting and fishing licenses are issued at the time of application. Special hunting licenses are issued via a random computer drawing process. Applications for moose, sheep and goat licenses must be completed by May 1st and applications for deer, elk and antelope licenses must be completed by June 1st. Nonresident combination big game licenses are limited and are issued on a first-come, first- served or drawing basis with an application deadline of March 15th.

4. **Fees**

Fees vary according to the type of license issued. Contact FWP.

5. **Criteria**

All applicants are eligible if they meet residence, hunter safety instruction and age requirements. Licenses and permits must be in the person's possession at the time of the activity.

FISHING, HUNTING AND TRAPPING REGULATIONS

1. **Types of Activities Regulated**

Certain fishing, hunting and trapping regulations are established annually by the Montana Department of Fish, Wildlife and Parks (FWP) depending on a number of factors: the current population of a species, climatic conditions, etc. Check with FWP for the latest requirements for a specific area or species.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

The following items or activities are among those regulated by FWP.

ACTIVITY OR ITEM	STATUTE OR RULE
Aerial hunting/hunting from boats	87-3-126, MCA
Big game hunting	87-3-301 through 307, MCA
Buying, selling, possessing or transporting fish or game	87-3-111, MCA
Fish hatcheries	87-3-201, MCA
Holding fish	87-3-207 and 208, MCA ARM 12.7.301
Ice fishing shelters	ARM 12.6.101-108

Importation or introduction of fish and wildlife	87-3-105, MCA
Importation of salmonid fish or eggs	87-3-210, 221, MCA
Migratory game birds	87-2-411, MCA
Number of game animals killed	87-3-103, MCA
Package labeling	87-3-114, MCA
Private ponds	87-4-603 through 607, MCA
Sale of fish or eggs	87-4-601, MCA
Scientific collector's permit	87-2-806, MCA
Seining or netting fish	87-3-205, MCA
Spotlighting	87-3-101(3), MCA
Snare trapping	87-3-107, MCA
Use of dogs for hunting	87-3-124, MCA
Use of fish as bait	87-3-203, MCA
Use of explosives or poisons for fishing	87-3-206, MCA
Wasting fish or game	87-3-102, 506, MCA
Waterfowl hunting	87-2-411, MCA

WILDLIFE PROTECTION

CAPTIVE BREEDING OF RAPTORS

1. Types of Activities Regulated

The Montana Department of Fish, Wildlife and Parks (FWP) requires a permit for the captive breeding of raptors. The department may grant a permit whether or not the

permittee is a licensed falconer. See also WILD BIRD PERMITS, p. 90 and NONGAME AND ENDANGERED SPECIES, p. 86.

Statute: 87-5-210, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division; or;

FISH, WILDLIFE AND PARKS COMMISSION

2. **Application Requirements**

Persons wishing to apply for a captive breeding permit must file a written application on a form provided by the department. Applications must be accompanied by a copy of a current federal captive breeding permit. Permits are issued annually and expire on December 31st.

Rule: ARM 12.6.1401

Contact: U.S. FISH AND WILDLIFE SERVICE
Regional Office, Denver, CO
Permits Division

3. **Fees**

The state fee for a captive breeding permit is $20.

Rule: ARM 12.6.1401

4. **Additional Information**

Captive raptors must be banded with a numbered, nonreusable marker provided by the U.S. Fish and Wildlife Service. Permit holders must notify FWP within five days from the day the first raptor egg is laid.

Rule: ARM 12.6.1403 and 1404

GAME PRESERVES

1. Types of Activities Regulated

It is unlawful for a person to hunt for, trap, capture, kill or take game animals, fur-bearing animals or birds within a game preserve established by the Legislature or by the Montana Fish, Wildlife and Parks Commission. It is also unlawful within the limits of a preserve for a person to carry or discharge firearms, create an unusual disturbance to frighten or drive away game animals or birds or to chase them with dogs.

Permits to capture birds or animals for the purpose of propagation or for scientific purposes, to trap fur-bearing animals or to kill certain predatory animals or birds within a preserve may be granted by the FWP director on the payment of a fee and in accordance with rules established for the preserve by the Commission.

Statute: 87-5-401 through 406, MCA

Rule: ARM 12.9.202-211

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

IMPORTATION OR INTRODUCTION OF FISH OR FISH EGGS

1. Types of Activities Regulated

It is unlawful to bring live or dead salmonid fish or eggs into Montana without written certification that the fish are free of diseases as specified in ARM 12.7.502 and a permit from the Montana Department of Fish, Wildlife and Parks pursuant to ARM 12.7.505 except for use in home or office aquariums. The department may inspect shipments of imported fish or eggs at any point in the state to ensure compliance with these regulations. The department may impound shipments for further testing if reasonable cause exists.

Statute: 87-3-209, 221 and 222, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

IMPORTATION OR INTRODUCTION OF WILDLIFE

1. **Types of Activities Regulated**

   A. It is unlawful to import for introduction or transplant or to introduce any wildlife into Montana without authorization from the Montana Department of Fish, Wildlife and Parks (FWP). Only specified species of wildlife may be approved by FWP for introduction or transplantation (see 87-5-714, MCA and ARM 12.7.701 for a list of species).

   B. A permit is required from FWP for the possession or sale of controlled exotic wildlife. It is unlawful to import, possess or sell exotic wildlife unless allowed by law or Montana Fish, Wildlife and Parks Commission rule and the person has received authorization for the importation from the Montana Department of Livestock. Noncontrolled exotic wildlife authorized for possession or sale are listed in 87-5-706, MCA.

   Statute: 81-2-701 through 703, 87-3-105 and 87-5-701 through 716, MCA

   Rule: ARM 12.7.505

   Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
   Wildlife Division

   DEPARTMENT OF LIVESTOCK
   Animal Health Division

MIGRATORY BIRDS

1. **Types of Activities Regulated**

   A. The U.S. Fish and Wildlife Service (USFWS) establishes laws relating to migratory birds. Under these regulations, no person is allowed to take, possess, import, export, transport, sell, purchase or barter for any migratory bird, or the parts, nests or eggs of these birds except under the terms of a valid permit. A list of migratory birds as established by the USFWS may be found in 50 C.F.R. § 10.13.

   Rule: Migratory Bird Treaty Act, 16 U.S.C. 703-712

   Contact: U.S. FISH AND WILDLIFE SERVICE
   Law Enforcement, Billings

B. Hunting seasons for migratory game birds are established by the Montana Department of Fish, Wildlife and Parks (FWP) through Fish, Wildlife and Parks Commission action. The seasons must fall within the federal frameworks established by the USFWS in consultation with the Flyway Councils, states and other interested parties. Persons wishing to hunt migratory game birds must possess the appropriate licenses as described in 87-2-411, MCA. See FISHING, HUNTING AND TRAPPING LICENSES, p. 80.

C. The department may issue an avicultural permit for taking, capturing and possessing migratory game birds for the purpose of propagation. The department must first determine that the applicant has received the appropriate federal permit or that the applicant will receive the appropriate federal permit subject to concurrence by FWP.

Statute: 87-2-807, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

NONGAME AND ENDANGERED SPECIES - STATE

1. Types of Activities Regulated

No person may take, possess, transport, export, process, sell or offer for sale or ship or receive for shipment any species or subspecies of nongame wildlife including species identified by the Montana Department of Fish, Wildlife and Parks (FWP) to be in need of management or listed as endangered by the state or the United States or on the United States list of endangered foreign fish and wildlife.

The FWP currently lists these species as endangered or in need of management.

Endangered:
the American peregrine falcon,
the whooping crane,
the gray wolf,
and the black-footed ferret.

Nongame wildlife in need of management:
crayfish,
freshwater mussels,
yellow perch,
crappie,
black-tailed prairie dogs, and
white-tailed prairie dogs.

The exceptions for the taking of endangered species are 1) in emergency situations; and 2) when necessary to prevent property damage or to protect human health if a permit is

first obtained from the director of FWP, and where possible, done by or under the supervision of a department agent. See also THREATENED AND ENDANGERED SPECIES - FEDERAL, p. 88.

The "lawful taking" (see 87-3-118, MCA) of nongame wildlife is specifically provided for in a number of ways, including via a management plan; a zoo/menagerie permit (see ROADSIDE ZOOS, p. 74); a rehabilitation permit; a raptor/falconry permit (see CAPTIVE BREEDING OF RAPTORS, p. 82 and WILD BIRD PERMITS, p. 90) or an avicultural permit (see p. 86(C)). The FWP director may permit the taking of endangered species for special purposes such as scientific research or for propagation in captivity.

In response to exploitation of several nongame species for the pet trade, the 2001 Legislature specifically protected the northern flying squirrel, pika, pygmy rabbit, all native amphibians and all reptiles native to Montana, except the prairie rattlesnake, from removal from the wild for commercial purposes.

In addition, 87-2-103 (1) (d) states that it is unlawful for a nonresident to trap or attempt to trap predatory or nongame wildlife without a license.

Statute: 87-5-101, 102, 105 through 109 and 116 MCA

Rule: ARM 12.5.201

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

TAKING FISH OR GAME FOR SCIENTIFIC PURPOSES

1. Types of Activities Regulated

A permit is required from the Montana Department of Fish, Wildlife and Parks (FWP) for taking, killing, capturing or possessing certain species for use in scientific studies. The permit holder may only take as many birds, animals or fish as are necessary for the investigation. A permit may not be granted for any species for which a taking is prohibited by statute or rule.

Statute: 87-2-806, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division
Wildlife Division

2. Application Requirements

A person or organization applying for a collection permit for a scientific investigation must submit an application to FWP. The department may require the applicant to submit a plan of operations that includes the purpose for the collection, the methodology to be employed and the qualifications of the collectors.

3. Permitting Procedures

The department may issue a permit with conditions on the time and number of birds, fish or animals that may be collected. The department may deny the permit if it determines: the applicant is not qualified, the collection is not necessary for the investigation, the collection method is not appropriate, the collection may threaten the viability of a species or there is no valid reason for the proposed investigation.

The permit holder is required to submit a report before December 31st that indicates the species, number of individuals taken and the locations of those collections. A permit holder who fails to file a report may be denied another permit.

Permits for collecting fish are not transferable and must be in the possession of the permittee at the time of the collection. Permits expire within the calendar year issued.

4. Fees

There is no fee for a collection permit for an educational institution or government agency. The fee for an individual is $50.

THREATENED AND ENDANGERED SPECIES - FEDERAL

1. Types of Activities Regulated

Under the federal Endangered Species Act (ESA), as amended, special protection is provided to a species or its habitat if the species is listed as endangered (in danger of extinction throughout all or a significant portion of its range), or threatened (likely to become endangered in the foreseeable future throughout all or a significant portion of its range). The U.S. Fish and Wildlife Service (USFWS) lists as endangered the whooping crane, the black-footed ferret, the pallid sturgeon, the least tern, and the Kootenai River population of the white sturgeon. Species listed as threatened include the bald eagle, the gray wolf, the grizzly bear, the piping plover, the bull trout, the Canadian lynx, the water howellia, the Spaulding's catchfly and Ute ladies'-tresses. Certain populations of the black-

footed ferret and the gray wolf are classified as nonessential experimental populations and are subject to different regulations.

The ESA requires that all federal agencies, in consultation with the USFWS must insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any threatened or endangered species. Federal agencies involved in major construction actions requiring preparation of an Environmental Impact Statement are required to request a species list and prepare a biological assessment for the purpose of identifying any endangered or threatened species that is likely to be adversely affected by the action.

The ESA prohibits any person or agency from *taking*[1] any listed species without a special exemption/permit. Species may be added to or removed from the list. Contact the USFWS for current listings.

Statute: 16 U.S.C. 1531-1544 (federal Endangered Species Act of 1973, as amended)

Contact: U.S. FISH AND WILDLIFE SERVICE
Montana Field Office, Helena

USE OF POISON BAIT ON DEPARTMENT LANDS

1. **Types of Activities Regulated**

No 1080 baits can be placed on Montana Department of Fish, Wildlife and Parks lands without written permission from the Montana Fish, Wildlife and Parks Commission.

Statute: 87-1-201 and 301, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

[1] To take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to engage in these actions.

WILD BIRD PERMITS

1. Types of Activities Regulated

A. No person may hunt, capture, kill, possess, purchase, offer or expose for sale or transport any nongame wild bird or part of a wild bird or take or destroy nests or eggs without a certificate or permit from the Montana Department of Fish, Wildlife and Parks (FWP). Exceptions are 1) house sparrows, crows, starlings, magpies, rock doves, blackbirds, (see * Note) and other species and their eggs or nests designated by FWP, and 2) possession or transportation of parts or plumage of eagles used for religious purposes by a member of a Native American tribe when permitted by federal law.

*** Note** Crows, blackbirds and magpies are protected by federal laws, (see MIGRATORY BIRDS, p. 85).

B. Licenses are required for any person to trap, possess, sell or transfer possession of a raptor or to train a raptor in the practice of falconry. The bald eagle and any species listed under the state or federal endangered species acts may not be captured in Montana for the sport of falconry.

C. The department may grant permits for the taking and holding of raptors for captive breeding purposes under certain specific conditions (see CAPTIVE BREEDING OF RAPTORS, p. 82).

D. A permit is required from FWP to take, capture or possess a wild bird for the purposes of banding for scientific studies, salvaging birds killed in accidents or collecting abandoned birds' nests for school or museum collections and nursing sick or injured birds.

A person seeking a scientific collection permit, rehabilitation permit, bird banding permit, or salvage permit (to salvage dead birds to make taxidermy mounts or use body parts in education programs) must first obtain a federal permit from the U.S. Fish and Wildlife Service, Migratory Bird Permit Office in Denver before the state may issue a permit for any of those activities involving birds protected under the federal Migratory Bird Treaty Act.

Statute: 87-5-201 through 210, MCA

Rule: ARM 12.6.1101-1103, 1106, 1109, 1112, 1116, 1118-1130 and 12.9.301

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division
Wildlife Division

2. **Fees**

The state fee for a three-year falconry permit is $25 (available only to residents of Montana) and for a one-year captive breeding permit, $20. A fee for the federal permit is also required.

Statute: 87-5-210, MCA

Rule: ARM 12.6.1120 (falconry permit)
ARM 12.6.1401 (captive breeding permit)

COAL AND URANIUM MINING: OPERATING PERMITS

1. Types of Activities Regulated

A permit is required from the Montana Department of Environmental Quality (DEQ) prior to engaging in strip- or underground mining operations. Mined lands must be reclaimed and revegetated. See also, WATER QUALITY PERMITTING, p. 177, and AIR QUALITY PERMITS, p. 32.

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information to ensure worker safety.

Statute: 82-4-201 *et seq.*, MCA (Strip and Underground Mine Reclamation Act), and
50-73-101 *et seq.*, MCA (Montana Coal Mining Code for mine safety)

Rule: ARM 17.24.301-1309 and 24.30.1302

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

2. Application Requirements

A. Permit

An applicant for a coal or uranium mine operating permit must submit a complete and detailed plan for the mining, reclamation, revegetation and rehabilitation of the land and water that may be affected by the proposed operations. The application must include information regarding climate, geology, hydrology, neighboring surface and ground waters and vegetation, etc., and two copies of all maps that meet the requirements outlined in statute. Each applicant for a coal mining permit must also submit a certificate

issued by an insurance company authorized to do business in Montana certifying that the applicant has a public liability insurance policy for the strip- or underground mining and reclamation operations described in the permit application.

Prior to the issuance of a permit, the operator must file a bond payable to the state of Montana with the DEQ in a sum to be determined by the department of not less than $200 for each acre or portion of an acre of the land affected, with a minimum bond of $10,000. If federal coal is involved, the bond must also be made payable to the U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement. Permits may be renewed on each 5-year permit anniversary by applying for a renewal. In order to renew a permit, the operator must be in compliance with the permit requirements.

B. Reclamation Plan

The reclamation plan for a coal or uranium mine must describe in detail how the applicant will comply with provisions regarding grading, backfilling, water control, topsoiling, reclamation and coal conservation, as well as measures that will be taken to eliminate damage to landowners and the public, their property, public roads, streams and all other public property from soil erosion, subsidence, landslides, water pollution and hazards. In addition, the plan must list the steps to be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards. Provisions regarding protection and/or reclamation of alluvial valley floors and prime farmlands must also be addressed.

Statute: 82-4-222, 227 and 231, MCA

Rule: ARM 17.24.302-327

3. **Permitting Procedures**

1) An application for a permit or major revision or amendment of a permit or reclamation plan must be submitted to the DEQ. Upon a determination by the DEQ that the application is administratively complete, the applicant must publish a notice in an area newspaper and the DEQ must notify various local governments, planning agencies, sewage and water treatment authorities and water companies in the area of the proposed mining. Interested persons, or any officer of a federal, state or local government agency may file written objections to the application within 30 days of the last publication of the applicant's public notice or receipt of the DEQ's notice. If written objections

are filed and an objector requests an informal conference, the DEQ must hold the conference in the area of the proposed mining and notify all parties.

2) The DEQ must notify the applicant in writing within 120 days after receipt of the complete application whether the plan is acceptable. If the plan is not acceptable, the DEQ must indicate its reasons. The applicant may then revise the application. The DEQ then has another 120 days to make its decision concerning the acceptability of the application.

3) An acceptable application triggers public notice by the DEQ of the acceptability of the proposal. A landowner, operator or any person adversely affected by the department's decision may file written objections and/or by written notice, request an informal conference. The informal conference must be held within 20 days of the request. The DEQ must issue its decision within 10 days of the conference.

Statute: 82-4-225 and 231, MCA

Rule: ARM 17.24.401-404

4. **Fees**

An application fee of $100 is required before a permit will be issued or a major permit revision is approved. An application fee of $50 is required for an amendment application.

Statute: 82-4-223 and 225, MCA

5. **Criteria**

The permit for a coal or uranium mining operation may be denied for a number of reasons, including, but not limited to, an inadequate reclamation plan; adverse reclamation possibilities; exceptional topographic or scientific characteristics or cultural resources; historic or geologic importance; critical biological productivity or ecological fragility; the threat of a public hazard; or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 228, MCA

Rule: ARM 17.24.1131-1148

COAL AND URANIUM MINING: PROSPECTING PERMITS

1. Types of Activities Regulated

A coal or uranium mine operator must obtain a prospecting permit from the Montana Department of Environmental Quality (DEQ) if the land is not already included in a current operating permit (see p. 92) and if the prospecting is conducted to determine the available mineral deposits. A reclamation plan and bond must be submitted. The permit is valid for one year and may be renewed.

A prospecting permit is not required for surface disturbances to determine the quantity of overburden in an area, or for gathering environmental data prior to strip- or underground mining and reclamation operations, providing the area to be disturbed is not one designated as unsuitable for coal mining (see 4. Criteria on the following page). However, a person who conducts these activities must file a notice of intent with the DEQ that contains the information required by the department prior to beginning prospecting operations.

Statute: 82-4-226 *et seq.*, MCA (Strip and Underground Mine Reclamation Act)

Rule: ARM 17.24.1001-1018

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

2. Application Requirements

1) The application for a prospecting permit must be made in writing, notarized and submitted to the DEQ in duplicate on forms furnished by the department. A detailed prospecting map and a prospecting reclamation plan must accompany the application. A description of the proposed method of prospecting and type of equipment to be used must be included. Prior to obtaining a prospecting permit, the applicant must file a reclamation bond with the DEQ based on the estimated cost of the required reclamation and restoration work. The bond may be no less than $200 per acre and the total bond may not be less that $10,000.

2) At least 120 days but not more than 150 days prior to the permit's anniversary date, the operator may submit an application for a permit

renewal stating the number of holes permitted and drilled, listing surface disturbances and supplying an updated map.

Statute: 82-4-226, MCA

Rule: ARM 17.24.1001, 1003, 1016 and 1102

3. **Fees**

The application fee for a prospecting permit is $100.

Statute: 82-4-226(3), MCA

4. **Criteria**

The permit for prospecting for coal and uranium may be denied for a number of reasons, including, but not limited to, adverse reclamation possibilities; exceptional topographic or scientific characteristics or cultural resources; historic or geologic importance; critical biological productivity or ecological fragility; the threat of a public hazard; or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 228, MCA

Rule: ARM 17.24.1131-1148

HARD-ROCK MINING: EXPLORATION

1. **Types of Activities Regulated**

Hard-rock mining laws apply to ores other than oil, gas, bentonite, clay, coal, sand, gravel, peat, soil or uranium. A state exploration license and operating, monitoring and contingency plans are required for pilot ore processing plants or sites and associated facilities constructed for the sole purpose of metallurgical or physical testing of ore materials, not to exceed 10,000 tons, to aid in determining the development potential of an ore body.

Statute: 82-4-301 *et seq.*, MCA

Rule: ARM 17.24.101 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. Application Requirements

To obtain an exploration license, the applicant must propose a specific project to the Montana Department of Environmental Quality (DEQ). The DEQ has available standard application forms as well as a sample plan of operations that shows the level of information required. The department also accepts copies of U.S. Forest Service operating plans as long as an adequate map is provided. Once the DEQ receives and reviews an exploration plan, an on-site visit is scheduled among the DEQ, the applicant, and usually, a representative from the appropriate federal agency, to calculate the amount of reclamation bond required for the project. In some instances, joint bonds with the DEQ and the federal agency are accepted to avoid duplicate bonding. The applicant must agree to post the bond, reclaim any damaged land and not be in default of any other reclamation law. An exploration license is a statewide license, and only one is issued per individual or company. Any additional projects are considered amendments to the license, and each must be individually approved and bonded.

Statute: 82-4-331 and 332, MCA

Rule: ARM 17.24.103-104

3. Permitting Procedures

On approval of the exploration plan by the DEQ and after the bond is submitted, the applicant will receive a hard-rock exploration license. The operator can not legally begin explorations, however, until federal approval, if applicable, is also granted. The license is renewable annually by filing an annual report and payment of the renewal fee.

Rule: ARM 17.24.103

4. Fees

The application fee for an exploration license is $100 and the yearly renewal fee is $25.

Statute: 82-4-332, MCA

HARD-ROCK MINING: MILLING/REPROCESSING

1. Types of Activities Regulated

A person planning to operate a mill to reprocess waste rock or tailings from a previous mining operation must obtain an operating permit before disturbing land in anticipation of the construction or operation of the mill or associated facilities. A *small miner* (see next page for more information on small mine operations) who does not use cyanide or other metal leaching solvents is excluded from this requirement.

Rule: ARM 17.24.167 and 171

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. Application Requirements

To apply for an operating permit from the Montana Department of Environmental Quality, the applicant must: 1) indicate the proposed date for operations to begin and the conceptual life of the mill; 2) provide a detailed map and summary of resources of the area; 3) file a reclamation bond; 4) file a plan of operation including construction, operating, monitoring and contingency plans; and 5) file a reclamation plan. A permit is required for each mill complex.

Annual reports must be submitted describing the available ore, the tailings and waste generated, water quality monitoring and the remaining waste and tailings capacity.

Milling operations are presumed completed and are thus subject to the reclamation time schedule outlined in the approved reclamation plan when the mill has ceased operations for a period of two years or more. A permittee may rebut this presumption by providing evidence satisfactory to the department that the operations have not been abandoned.

Rule: ARM: 17.24.167-170

3. Fees

A filing fee of $500 is required unless the mill application is submitted with an associated new operating permit application.

Rule: ARM 17.24.167

HARD-ROCK MINING: OPERATING PERMITS

1. Types of Activities Regulated

A. Large Scale Operations

1) An individual or company is required to obtain a mine operating permit from the Montana Department of Environmental Quality (DEQ) prior to beginning mining unless excluded under the conditions of the *small miner's* exemption (see B. below). Annual reports and fees are required. A reclamation bond and a reclamation plan must be submitted and the department conducts annual inspections for compliance with the reclamation plan. See AIR QUALITY PERMITS p. 32; WATER APPROPRIATIONS, p. 169; and WATER QUALITY PERMITTING, p. 177.

Statute: 82-4-335 through 362, MCA

Rule: ARM 17.24.101-153

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2) The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information to ensure worker safety.

Statute: 50-72-101 *et seq.*, MCA

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

B. Small Mine Operations

1) Small miners are exempt from many of the requirements of larger mining operations, including most requirements for bonding and reclamation. A small miner is an operator or reprocessor who does not hold an operating permit for another operation in the state more than 100 acres in size, whose operations leave no more than five

acres disturbed and unreclaimed and who files a Small Miner's Exclusion Statement with the DEQ. The small miner exclusion also applies to two operations that are each less than five acres and that are at least one mile apart.

2) The small miner must sign a Small Miner's Exclusion Statement (SMES), available at the DEQ, which consists of a signed and notarized affidavit stating that the applicant will stay within the requirements or conditions of the exclusion. An annual Compliance Commitment and Certificate of Business Relationships are required to maintain SMES status. Excepting certain grandfathered categories, the DEQ has the authority to require a maximum $10,000 reclamation bond on small placer and dredge mines and to recover costs over the $10,000 limit by filing for the additional amount in District Court.

3) Small mining operations that use cyanide or other metal leaching solvents are required to obtain an operating permit and to submit a bond for the full reclamations costs for the portion of their operation where these solvents are used. (See 1.A under Large Scale Operations.)

4) Recreational miners who *do not*: use motorized excavating equipment; use blasting agents; disturb more than 100 square feet or 50 cubic yards of material at any site; leave unreclaimed sites less than one mile apart; use mercury except in a contained facility that prevents its escape; or use cyanide or other metal leaching solvents *do not need* a small miner's exemption. A landowner allowing mining activities that cumulatively exceed the regulatory threshold *does* fall under the definition of small miner. A small miner's exemption is also required for the use of suction dredges with an intake greater than four inches in diameter, operating beyond the area of a stream bed that is naturally under water at the time of operation, and the person has not received project approval under the Natural Streambed and Land Preservation Act (see STREAM BEDS-STREAM BANKS-WETLANDS, p. 11) and a discharge permit (see WATER QUALITY PERMITTING, p. 177).

Statute: 82-4-301 *et seq.* , MCA

Rule: ARM 17.24.101 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. Application Requirements

Large Scale Operations and Small Mine Operations Using Metal Leaching Solvents

An applicant for an operating permit must submit an application for each mine complex. The application consists of several parts, including a description of the present condition of the area, i.e., hydrology, soils, vegetation, cultural resources, wildlife, etc; an operating plan describing the type and size of the operation, equipment, etc; reclamation plans, stating the reclamation objectives and how they will be implemented; monitoring plans; contingency plans; and closure plans. Once the application is completed, the agency will evaluate the plans and will either approve or deny the permit or will approve the permit with conditional mitigations or stipulations. If approved, a bond is then calculated based on the applicant's reclamation plan. Once the bond is submitted, the permit is granted.

Statute: 82-4-335 through 338, MCA

Rule: ARM 17.24.116

3. Permitting Procedures

1) Once a plan is submitted, the DEQ has 60 days for an initial review and 30 days for any subsequent review of the application to determine if it is complete, i.e., if there is enough information to begin an environmental review and make an informed permit decision.

2) If incomplete, the applicant is mailed a deficiency or completeness review letter on or before the review deadline. The letter alerts the applicant to additional resource or plan information required by the department. If it is a joint state/federal action (if permits are required by both the DEQ and the U.S. Forest Service or Bureau of Land Management), a joint deficiency letter is sent that includes comments from both the state and federal agencies. During the application process, the DEQ inspects the proposed site. If the site is not accessible because of extended adverse weather conditions, the DEQ may extend the review period by not more than 180 days to allow for inspection of the site. If the DEQ determines that additional time is needed to review the application and reclamation plan for a major operation, the department and applicant must negotiate to extend the time period by not more than 365 days.

3) There are no constraints on the amount of time an applicant has to prepare a response. Once a response is submitted, the DEQ again has 30 days to

review the information. This process continues until the application is completed.

4) Once the application is deemed complete the DEQ has up to 365 days to conduct an environmental review (see MONTANA ENVIRONMENTAL POLICY ACT, p. 114). This time frame may be extended only through negotiations satisfactory to the department and the applicant.

5) A permit may be appealed within 90 days of issuance.

6) The operating permit must provide that the reclamation plan may be modified by the DEQ after timely notice and an opportunity for hearing.

Statute: 82-4-337 and 349, MCA

4. Fees

The application fee for a hard-rock mining permit is $500. The fee for filing the annual report is $100.

Statute: 82-4-335, MCA

Rule: ARM 17.24.116 and 118

5. Criteria

An operating permit may be denied if the plan of development--mining or reclamation--conflicts with the Montana Clean Air Act (75-2-101 *et seq.*, MCA, p. 32), the Montana Water Quality Act (75-5-101 *et seq.*, MCA, p. 177), the Public Water Supply Act (75-6-101 *et seq.*, MCA, p. 164), or if the reclamation plan is insufficient to accomplish the proposed reclamation.

Additional criteria apply if the applicant has outstanding enforcement or reclamation responsibilities.

Statute: 82-4-351, MCA

6. **Additional Information**

Large Scale Developments

1) When a proposed mining project will employ more than 75 people in a consecutive six-month period in the construction or operation of a mine or associated milling facilities, the applicant must submit an economic impact plan to the affected counties and to the Hard-Rock Mining Impact Board. The plan must include development timetables, work-force and population in-migration projections, and the increased local government service and facility needs, costs and revenues expected to result from the development. The developer must commit to pay to the affected local governments the increased costs identified in the approved plan and, if requested, must provide financial or other assistance to help local governments prepare for and evaluate the impact plan.

2) After the plan is submitted for review, the affected governing bodies have 90 days to submit objections to the Impact Board. If objections can not be resolved by the developer and local governments, the Impact Board will hold a contested case hearing. Impact plan review is conducted concurrently with the Montana Department of Environmental Quality (DEQ) mine operating permit review.

3) Within 30 days after receipt of the approved plan, the developer must provide to the Board and the DEQ a written guarantee that it will make all payments according to the plan schedule. If the plan requires prepayment of taxes, the developer must also provide a third-party financial guarantee acceptable to the Board. Compliance with the terms of an approved impact plan is a statutory condition of the DEQ's operating permit.

4) Under certain circumstances, as specified by statute or by the plan itself, the developer or an affected county may petition the Board for an amendment to the impact plan. Jointly, they may petition for an amendment at any time.

Statute: 82-4-335 and 339, 15-37-111 and 90-6-301 *et seq.*, MCA

Rule: ARM 8.104.201 *et seq.*

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF COMMERCE
Community Development Division
Hard-Rock Mining Impact Board

LANDOWNER NOTIFICATION

1. Types of Activities Regulated

When surface and mineral rights are in separate ownership, the surface owner must be notified and give approval in writing of the proposed operations before any prospecting, exploration or development of subsurface minerals can take place.

Statute: 82-2-301 *et seq.*, MCA (Landowner Notification Act)

Contact: SURFACE OWNER

MINING RIGHT-OF-WAY

1. Types of Activities Regulated

The owner of mining rights may establish a right-of-way over adjacent lands if necessary to work the claim. The right-of-way may be for roads, ditches, flumes and other mine-related purposes. Application is made to the District Court.

Statute: 82-2-201 *et seq.*, MCA

Contact: DISTRICT COURT

2. Permitting Procedures

1) If the mine owner can not obtain the agreement of adjacent landowners for right-of-way, the mine owner may file a complaint in District Court requesting that a right-of-way be created.

2) After receipt of the complaint, the district judge must issue a summons to the parties requiring appearance before the court. The court appearance must be 10 or more days from the date of service of the summons.

3) If the judge determines that the right-of-way is warranted, the judge must award the mine owner the right-of-way and establish a commission of three persons to assess damages to the lands used as right-of-way.

4) Use of right-of-way can only begin upon payment of the assessed damages.

Statute: 82-2-203 through 208, MCA

3. Additional Information

Any party may appeal the commissioners' assessment of damages to the District Court within 10 days after the report is filed.

Statute: 82-2-209 through 212, MCA

OPENCUT MINING

1. Types of Activities Regulated

The Opencut Mining Act and the correlated regulations apply to the mining of bentonite, clay, scoria, peat, soil, sand or gravel. An operator may not remove over 10,000 cubic yards of material and overburden until the Montana Department of Environmental Quality (DEQ) has issued a permit for the reclamation of affected lands. Exemptions may be available for operators currently holding a reclamation permit if the new operations will result in the removal of 2,500 cubic yards or less of material and overburden. There are specific requirements for this exemption, however, and a completed form provided by the DEQ must be submitted. Operations on certain federal lands are exempt from the Opencut Mining Act if the Board of Environmental Review determines that federal regulations are at least as stringent as state requirements.

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information to ensure worker safety.

All opencut sand and gravel operations must comply with applicable zoning regulations if the proposed mine site is in an area zoned as residential.

An air quality permit (see AIR QUALITYPERMITS, p. 32) from the DEQ is required for the operation of any mineral crushing or other processing plants.

Statute: 82-4-401 *et seq.*, MCA (Opencut Mining Act)
50-72-101 *et seq.*, MCA (mine safety)

Rule: ARM 17.24.201 *et seq.* and 17.8.705

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

2. **Application Requirements**

1) An operator must submit an application for a reclamation permit on a form furnished by the DEQ. A bond of at least $200 for each affected acre, a zoning compliance form, plans of the intended operations and other details of the mine operation are also required.

2) The DEQ has 15 days to notify the applicant whether the application is complete. If the application is not complete, the department must list the deficiencies.

3) The department has 30 days to approve or deny a complete application. The DEQ may, for sufficient cause, extend the review period an additional 30 days.

Statute: 82-4-432 through 434, MCA

Rule: ARM 17.24.203-205

3. **Permitting Procedures**

The application form and accompanying materials (permits, bond, map(s) and reclamation plan, etc.) are reviewed for completeness to ensure that each item is addressed correctly. An on-site evaluation is conducted to determine if the land is mineable and reclaimable and to make sure site conditions are as specified in the application. The site inspection may be conducted with the applicant and other interested persons. If additions or changes are necessary, the applicant must be notified as outlined in 82-4-432(4), MCA.

Statute: 82-4-432(4), MCA

Rule: ARM 17.24.212

4. **Fees**

An application fee of $50 is required for an opencut mining permit.

Statute: 82-4-432, MCA

5. **Criteria**

The DEQ will issue a permit only if the bond, reclamation plan and other requirements of Title 82, Chapter 4, Part 4 are fulfilled. The reclamation plan must ensure that the applicant will establish vegetative cover, will appropriately protect ground and surface water and will remove or bury metal and other waste, etc.

Statute: 82-4-432 through 434, MCA

Rule: ARM 17.24.205 and 212

OPERATIONS ON STATE LANDS: COAL MINING

1. **Types of Activities Regulated**

Coal mining leases on state lands are awarded by competitive bidding at no less than fair market value. The primary term is 10 years and as long thereafter as coal is produced in commercial quantities. Rent and royalties must be paid. See also WATER QUALITY PERMITTING, p. 177.

Statute: 77-3-301 *et seq.*, MCA

Rule: ARM 36.25.301 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. **Application Requirements**

Applications for coal leases may be made on a form furnished by the department. An adequate and sufficient description of the lands sought for lease must be included. All coal leases must comply with the requirements of the Strip and Underground Mine Reclamation Act, (82-4-201 *et seq.*, MCA, pp. 92-94). Mining operations must be systematic to the extent possible to prevent the waste of coal and to prevent more difficult or costly mining in subsequent operations.

Statute: 77-3-306, MCA

Rule: ARM 36.25.304

3. **Permitting Procedures**

1) When sufficient applications for leases have been received, a lease sale will be announced through publication in a trade journal of general circulation in the coal mining industry or in Montana's major newspapers for four weeks preceding the sale.

2) Prior to issuing a coal mining lease, the Board of Land Commissioners must evaluate the coal and land proposed for lease in order to determine the fair market value of any coal reserves located on the land.

3) Sales of state coal leases are through competitive bidding. The Montana Department of Natural Resources and Conservation may require a bid deposit in any amount it may determine, up to 10 percent of the appraised value of the coal offered for lease.

Statute: 77-3-312, MCA

Rule: ARM 36.25.304

4. **Fees**

A. A fee of $50 is required for a lease application.

B. Rent is on a per-acre basis and can not be less than $2 per acre.

C. The lessee must pay in cash a royalty on all coal produced from the leased premises at a rate of not less than 10 percent of the coal's value.

Statute: 77-3-316, MCA

Rule: ARM 36.2.1003 and 36.25.309-310

OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

1. **Types of Activities Regulated**

The Board of Land Commissioners leases state lands for the purpose of mining for metalliferous minerals and gems (see HARD-ROCK MINING: EXPLORATION, p. 96, for a definition). Royalties must be at least five percent of the full market value of the metalliferous minerals recovered under the lease.

Statute: 77-3-101 *et seq.*, MCA

Rule: ARM 36.25.601

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

An application for a mining lease must be made on forms furnished by the DNRC.

Statute: 77-3-111, MCA

Rule: ARM 36.25.604

3. Permitting Procedures

1) Leases may be issued on a first-come, first-served basis or by competitive bid.

2) When the DNRC receives an application for a lease, it may advertise for written bids on the tract of land for a reasonable time in trade journals and/or the official county newspaper of the county where the tract is located.

3) If bids are accepted, the tract will be leased to the highest bidder unless the Board determines that the bid is not in the state's best interest.

4) Prior to the leasing of state lands for mining, the DNRC must conduct an investigation of the lands to determine the character of the lands for mining and the amount of royalty. The department may require the applicant to pay for this investigation in a sum not to exceed $500.

5) The lease will contain provisions for prospecting and mining, royalty, etc. The Board also may require payment of a bond.

Statute: 77-3-111 through 112 and 77-3-119 through 121, MCA

Rule: ARM 36.25.602 *et seq.*

OPERATIONS ON STATE LANDS: PROSPECTING

1. Types of Activities Regulated

Permits for prospecting for metalliferous metals (gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals) or gems (sapphires, rubies and other stones known as *precious* or *semiprecious*, but not including stones used in construction work) on state lands must be obtained from the Montana Department of Natural Resources and Conservation (DNRC).

Statute: 77-3-101 *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

The applicant for a prospecting permit on state lands is required to pay the issuance fee. The permittee also must pay an annual fee during the life of the permit.

Statute: 77-3-103, MCA

3. Fees

The prospecting permit fee is set by the DNRC and approved by the Board of Land Commissioners. Contact the DNRC for fee information.

Statute: 77-1-302, MCA

Rule: ARM 36.2.1003

OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NONMETALLIFEROUS MINERALS

1. Types of Activities Regulated

Leases for the mining of nonmetallic minerals (i.e., stone, limestone, oil shale, clay, bentonite, calcite, talc, mica, ceramic, asbestos, marble, diatomite, gravel and sand, phosphate, sodium, potash, sulphur, fluorite, barite or any other nonmetallic mineral,

exclusive of coal, oil or gas) on state lands are issued on a royalty basis for up to a 10-year period. The lessee may have a preferential right of renewal of a producing lease under the readjustment of terms and conditions as the Board may determine to be necessary in the interest of the state. Monthly reports are required. The Board of Land Commissioners may issue permits on its terms and conditions to the Montana Department of Transportation, the Board of County Commissioners or other local government entities for the removal and use of stone, gravel or sand from state land for the construction and maintenance of streets, bridges, highways, etc. Compliance with air quality laws is also required. See AIR QUALITY PERMITS, p. 32 and OPENCUT MINING, p. 105.

Statute: 77-3-201 *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

Applications must be made on forms supplied by the Montana Department of Natural Resources and Conservation.

3. Permitting Procedures

See: OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS, p. 108.

4. Fees

An application fee of $40 is required for a nonmetalliferous lease.

Statute: 77-3-202, MCA

Rule: ARM 36.2.1003

RECORDING OF MINING CLAIMS

1. Types of Activities Regulated

A person who discovers a vein, lode or ledge of rock on federal land bearing valuable mineral deposits and who wishes to locate a mining claim must follow these procedures:

1) Post a written notice at the point of discovery;

2) Within 30 days, mark the boundaries of the site;

3) Within 60 days, comply with United States mining laws and record the location with the county clerk and recorder, who in turn must provide a copy within 20 days to the Montana Department of Natural Resources and Conservation. The claimant must also, within 90 days, record the claim with the Bureau of Land Management (BLM), Montana State Office in Billings; and

4) File an affidavit of performance of annual work with the appropriate county. Claim maintenance fees must be paid or the applicant must comply with the BLM small miner maintenance fee waiver provisions by September 1st of each year. Small miners taking advantage of the fee waiver provisions must still file annual assessment filings on or before December 30th of each year.

Statute: 82-2-101 *et seq.*, MCA

Contact: COUNTY CLERK AND RECORDER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Montana State Office

MONTANA ADMINISTRATIVE PROCEDURES ACT

1. Types of Activities

Whenever a statute requires a license or permit decision to be preceded by a hearing, the contested case provisions of the Montana Administrative Procedures Act (MAPA) apply.

Statute: 2-4-601 *et seq.*, MCA

Rule: ARM 1.3.101 *et seq.*

2. MAPA Procedures

After reasonable notice, all parties must be afforded an opportunity for hearing. Parties are entitled to be represented by an attorney. If formal hearing procedures are followed, the rules of discovery and evidence, right to cross-examine witnesses, rules of privilege, etc., will apply except as otherwise provided by the statute. If all parties agree, less formal procedures may be followed. A hearing officer may be appointed to make findings and recommendations to the agency decisionmakers. A transcript of the hearing will be made available upon request. Within 30 days after the agency's final decision, an aggrieved party may appeal the decision to District Court.

Statute: 2-4-702(2)(a), MCA

MONTANA ENVIRONMENTAL POLICY ACT

1. Types of Activities Reviewed

As outlined in the Montana Environmental Policy Act (MEPA) and agency MEPA Administrative Rules, all agencies of the state must conduct an environmental review when making decisions or planning activities that may have an impact on the environment. Depending on the scope and significance of the project, the agency must prepare either an Environmental Assessment (EA), a Mitigated Environmental Assessment (Mitigated EA) or an Environmental Impact Statement (EIS). The environmental review process applies not only to actions initiated by the agency, but also to the issuance of state permits and licenses.

2. Review Process

A. Environmental Assessments (EA)

A state agency must prepare an EA when it is considering an action that may impact the environment and it is unclear whether an EIS is needed, or it is clear that the impacts of the proposed action are not significant, or statutory requirements do not allow sufficient time for the agency to prepare an EIS. The level of analysis required for an EA depends on the complexity of the proposed action, the environmental sensitivity of the area affected, the degree of uncertainty as to whether the proposed action will have a significant impact on the environment and the need for and complexity of mitigation required to avoid significant impacts. If an EIS is not needed, the agency must explain why an EA is sufficient.

B. Mitigated Environmental Assessment (Mitigated EA)

A state agency may, as an alternative to preparing an EIS, prepare an EA whenever the action is one that might normally require an EIS, but effects that might otherwise be deemed significant appear to be mitigable below the level of significance through design, or enforceable controls or stipulations or both, imposed by the agency or other government agencies.

C. Environmental Impact Statements (EIS)

A state agency must prepare an EIS whenever an EA indicates an EIS is necessary, or when the agency determines that the proposed action is a major action that will significantly affect the environment. An EIS must discuss the environmental impact of the proposed action; any adverse

environmental effects that can not be avoided should the action be taken; alternatives to the proposed action; the relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity; and any irreversible and irretrievable commitments of resources that would be involved if the proposed action were taken.

Prior to preparing an EIS, the agency must solicit public comment to determine the scope of the analysis.

The agency must then prepare a draft EIS and distribute it for public comment. Depending on the comments received, the agency may revise the draft EIS and publish a final EIS, or adopt the draft as the final EIS. The final EIS must include a summary of the major conclusion and supporting information from the draft EIS; a list of all sources of oral and written comments on the draft EIS; the agency's responses to those comments; information obtained subsequent to circulation of the draft EIS; and the agency's recommendation, preferred alternative, or proposed decision together with an explanation of the reasons for the decision.

3. **Actions Excluded or Exempted from Environmental Review**

The agency is not required to prepare an EA or an EIS for the following categories of action:

(a) actions exempted by statute. These are:
   1) Public Service Commission activities;
   2) legislation;
   3) certain emergency timber sale situations or time dependent access situations involving timber.
   4) certain actions that involve minor amendments to a hard-rock mine operating permit;
   5) the transfer of permits for portable emission sources;
   6) a qualified exemption for reciprocal access agreements on state land.
   7) a transfer of an ownership interest in a lease, permit, license, certificate or other entitlement for use or permission to act by an agency does not trigger review if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law;
   8) DNRC's issuance of lease renewals and state leases and licenses subject to further permitting by DEQ;
   9) Nonaction on the part of the DNRC or the Board of Land Commissioners even though it has the authority to act;
   10) Issuance of historic right-of-way deeds across state lands;

11) Transfer of certain coal mine operating permits; and
12) Emergency energy orders issued by the Governor.

(b) actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic review. In the rule or programmatic review, the agency must identify any extraordinary circumstances in which a normally excluded action requires an EA or EIS;

(c) administrative actions: routine, clerical or similar functions of a department, including but not limited to administrative procurement, contracts for consulting services and personnel actions;

(d) minor repairs, operations or maintenance of existing equipment or facilities;

(e) investigation and enforcement: data collection, inspection of facilities or enforcement of environmental standards;

(f) ministerial actions: actions in which the agency exercises no discretion, but rather acts upon a given state of facts in a prescribed manner;

(g) actions that are primarily social or economic in nature and that do not otherwise affect the human environment; and

(h) actions taken that are immediately necessary to control the impacts of an emergency.

4. Fees

If the cost of preparing the EIS exceeds $2,500, the agency may collect a fee from the applicant to pay the costs of EIS preparation. A fee schedule based on the cost of the proposed project is set forth in the statute.

Statute: 75-1-203, MCA

5. Additional Information

When a single project requires permits from two or more agencies, a lead agency will be designated to collect the EIS fee and to coordinate preparation of the document.

Statute: 75-1-101 *et seq,* MCA

Rule: Agriculture:
ARM 4.2.312 *et seq*
Commerce:
ARM 8.2.302 *et seq.*
Fish, Wildlife and Parks:
ARM 12.2.428 *et seq*
Environmental Quality:
ARM 17.4.601 *et seq*
Livestock:
ARM 32.2.222 *et seq*
Natural Resources:
ARM 36.2.521 *et seq*
Transportation:
ARM 18.2.235 *et seq*

Contact: Specific Agency

ENVIRONMENTAL QUALITY COUNCIL
LEGISLATIVE SERVICES DIVISION
Legislative Environmental Policy Office

GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

A person or firm planning to conduct geophysical[1] exploration must have a geophysical exploration permit issued by the county clerk and recorder.

Statute: 82-1-101, MCA

Contact: COUNTY CLERK AND RECORDER

2. Application Requirements

1) Prior to beginning the exploration, the applicant must file a Notice of Intent with the clerk and recorder in each county where the exploration will occur.

2) The Montana Secretary of State's Office requires the designation of an authorized resident agent to contact in case of legal action related to the exploration. In addition, a surety bond must be filed with the Secretary of State to indemnify property owners against potential property damage resulting from the exploration.

Statute: 82-1-102 through 104, MCA

3. Permitting Procedures

1) When notified that the surety bond has been filed, the county clerk and recorder will issue an exploration permit valid for that calendar year. The county clerk forwards a notice of the application to the Board of Oil and Gas Conservation (BOGC), which then advises the clerk's office whether the applicant is or is not in compliance with all applicable laws and rules. The BOGC is responsible for taking action to ensure compliance.

2) Before beginning operations, the permit holder must notify the surface users of the land of the schedule of exploration activities. The surface user is

[1] Types of geophysical exploration methods include seismic, gravity and magnetic--among others.

responsible for providing the applicant with the name of a contact person. Written permission from the surface owner is required to discharge shot holes within a prescribed distance from some structures and water features.

3) Within three months after any firing of shot points in seismic exploration, the permit holder must file a report with the county clerk and recorder. Shot holes must be plugged as specified by the BOGC unless otherwise agreed to between the surface owner and the company. When the exploration is completed, the land surface must be restored.

4) Exploration crews operating in the state must comply with crew identification requirements established by the BOGC.

Statute: 82-1-101 through 108, MCA

Rule: ARM 36.22.501-504

Contact: COUNTY CLERK AND RECORDER

BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

SECRETARY OF STATE
Business Services Bureau

4. **Fees**

The fee for a geophysical exploration permit is $5 per year.

Statute: 82-1-105, MCA

OIL AND GAS

1. Types of Activities Regulated

A notice of intention to explore and drill for oil and gas, including coal bed methane, on private or state lands[1] must be filed with the Montana Board of Oil and Gas Conservation (BOGC) and permits to drill are required. Wells must comply with spacing units and be operated in compliance with the BOGC's regulations and established pooling orders. Operators must also comply with the Montana Department of Environmental Quality's discharge regulations. See WATER QUALITY PERMITTING, p. 177. If water discharged from a well is to be put to a beneficial use, a permit from the Montana Department of Natural Resources and Conservation may be required (see WATER APPROPRIATIONS - GROUND WATER, p. 169 and WATER APPROPRIATIONS - SURFACE DIVERSIONS, p 171).

Statute: 82-11-101 *et seq.*, MCA

Rule: ARM 36.22.601 *et seq.*

Contact: BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

2. Application Requirements

The notice of intention to drill must include information identifying the area where the proposed activity will occur. Well logs must be kept and filed with the BOGC; surface lands restored; fresh water supplies protected; and wells drilled, cased, operated and plugged in accordance with Board rules. A bond must be posted to guarantee proper abandonment procedures. No exploration or development drilling may take place until a permit is issued.

Rule: ARM 36.22.601-602

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[1] The BOGC's jurisdiction over federal lands is limited to the authority granted by the U.S. Bureau of Land Management in a Memorandum of Understanding. The BOGC has no jurisdiction over wells drilled on land held in trust by the United States for tribes or Indian allottees.

3. **Permitting Procedures**

1) After the permit is issued, an oil or gas operator or developer must give advance written notice of the proposed drilling operations to the surface owner of record and any purchaser under contract for deed. The owner or operator of an oil or gas well on state-owned land must notify the Montana Department of Natural Resources and Conservation in advance of any operations.

2) The operator is responsible for advertising a notice of pending permit for a well in undeveloped (wildcat) areas in the *Helena Independent Record*, and in a newspaper of general circulation in the county where the well is located. Wells located in BOGC delineated fields need not be advertised, except under certain conditions. Advertisements must follow a format prescribed by the BOGC in rule and must advise of the procedure required to request a hearing. If no request for hearing is received within the 10-day notice period, the permit may be administratively approved. The staff is required to refer an application for permit to drill to the BOGC for notice and public hearing.

3) Prior to the development of a coal bed methane well, the developer must offer a reasonable water mitigation agreement to each ground water right holder with a well that is within 1 mile of the coal bed methane well or within one-half mile of a well that is adversely affected by the coal bed methane well.

4) If the project complies with applicable statutes, rules and regulations, a permit is issued. Operations must occur within the terms and conditions of the permit and the Board administrator has the authority to impose additional permit conditions if it is warranted.

Statute: 82-10-503, 82-11-122, 123 and 175, MCA

Rule: ARM 36.22.601, 602 and 604

4. **Fees**

Permit fees for oil or gas well drilling are:

1) For each well with an estimated depth of 3,500 feet or less, $25;

2) From 3,501 feet to 7,000 feet, $75;

3) 7,001 feet and deeper, $150.

The BOGC also collects a privilege and license tax to fund the services of the BOGC that is 3/10 of 1 percent of the value of each barrel of crude petroleum and each 10,000 cubic feet of natural gas produced, stored, saved or marketed.

Statute: 82-11-118, 131 and 137, MCA

Rule: ARM 36.22.603

OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

The Board of Land Commissioners may issue a geophysical exploration permit on state-owned lands for the purpose of prospecting and exploring for oil and gas.

Rule: ARM 36.25.230 *et seq.*

Contact: BOARD OF LAND COMMISSIONERS
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

A person wishing to prospect for oil and gas by geophysical methods on state land for which an oil and gas lease is not held must submit two copies of a permit application to the Montana Department of Natural Resources and Conservation (DNRC). The application must include a legal description of the areas where the exploration will take place. Descriptions of multiple sections of state-owned land are allowed. A permit from the Board of Oil and Gas Conservation is also required (see OIL AND GAS, p. 118).

Rule: ARM 36.25.230 *et seq.*

3. Permitting Procedures

1) The applicant must be registered to do business in Montana and file a surety bond with the Montana Secretary of State's office. The name and permanent address of the geophysical exploration firm that will be doing the actual seismic work must also be submitted.

2) The applicant must provide proof that the surface owner or lessee has been notified of the approximate time schedule of activities. Permission from oil and gas lessees is also required to conduct exploration on lands covered by an oil and gas lease.

3) A geophysical exploration permit is valid for one year and does not grant any rights to an oil and gas lease or any other interests in the land.

4) There are several conditions for conducting exploration activities designed to protect the land surface.

Rule: ARM 36.25.231 and 232

Contact: SECRETARY OF STATE
Business Services Bureau

4. **Fees**

A. A fee of $50 is required for a permit application.

B. The DNRC charges $50 per shot hole or $100 per mile for vibroseis.

Rule: ARM 36.2.1003 and 36.25.236

OPERATIONS ON STATE LANDS: OIL AND GAS

1. **Types of Activities Regulated**

The Board of Land Commissioners is authorized to lease any state-owned minerals for the purpose of oil and gas exploration or drilling and development. This includes private or state oil and gas rights beneath state surface-owned land and state oil and gas rights beneath non-state owned land. Coal bed methane is part of the oil and gas estate. Corporations not incorporated in Montana must obtain a certificate of authority to transact business in the state from the Secretary of State prior to applying for a lease.

Statute: 77-3-401, MCA

Rule: ARM 36.25.203-204

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

SECRETARY OF STATE
Business Services Bureau

2. **Permitting Procedures**

1) A person wishing to lease state lands for oil and gas operations must submit an application on forms furnished by the Montana Department of Natural Resources and Conservation (DNRC).

2) Sale of oil and gas leases are normally held once each quarter (March, June, September and December). The sale of each lease takes place through competitive oral bidding.

3) Notice of each sale is published in the *Rocky Mountain Oil Journal* (formerly the *Montana Oil Journal*) or in one of the state's general circulation publications. Notice is also posted on the DNRC Minerals Management Bureau website and mailed to an interested persons mailing list.

4) The primary term of an oil and gas lease may be for no more than 10 years and no less than five years unless the Board deems that a shorter term is necessary. An oil and gas lease issued on state lands may not exceed 640 acres, except that any section surveyed by the United States containing more than 640 acres may be included under one lease. Leased lands must be generally compact and contiguous.

5) Owners of state oil and gas leases may enter into agreements with others for drilling and other operations. Pooling agreements are also possible. The Board may approve assignment of oil and gas leases to qualified assignees.

6) The owner or operator of an oil or gas well on state-owned land must notify the DNRC in advance of any operations.

7) The lessee is required to submit a plan for location of all facilities to the surface owner or lessee and is required to consult with the surface owner or lessee regarding reasonable location of access roads.

8) Oil and gas operations on state lands are subject to other applicable state regulatory authorities (see OIL and GAS, p.123).

Statute: 77-3-404, 405, 421, 429, 430 and 438, MCA

Rule: ARM 36.25.203, 205, 206 and 217

3. **Fees**

The fee for an oil and gas lease application is $15 and $25 for a lease issuance. The lease rental fee is $1.50 per acre but not less than $100 per year. The delay drilling penalty is $1.25 per acre in year six of the lease and $2.50 per acre in years seven through 10 of the lease in addition to the rental fee. Royalties are 12.5 percent on gas and 13 percent on oil.

Rule: ARM 36.2.1003 and 36.25.208- 210

UNDERGROUND INJECTION CONTROL

1. **Types of Activities Regulated**

Underground injection control permits are required from the Montana Board of Oil and Gas Conservation (BOGC) for new injection wells or to convert existing wells to injection for the purposes of disposal, storage or enhanced recovery of oil or gas (class II wells).

Underground injection wells that inject hazardous and nonhazardous wastes below the lowermost under ground source of drinking water (class I); inject super-heated steam, water or other fluids into formations in order to extract minerals (class III); other injection wells that are not included in categories I-III and are usually shallow wells that inject nonhazardous fluids (class V); and underground injection wells on reservation lands are permitted by the U.S. Environmental Protection Agency. Class IV wells that inject hazardous or radioactive wastes into or above underground sources of drinking water are prohibited.

Statute: 82-11-101 *et seq.*, MCA

Rule: ARM 36.22.1401 *et seq.*

Contact: BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. **Application Requirements**

1) The application for an underground injection well filed with the BOGC must show the location of all wells and pipelines, a description of the formation, a

description of the injection zone, logs and lithologic information, a description of the injected fluids and the names and addresses of the leaseholders and the surface owners. In addition, the applicant must submit a corrective action plan and fulfill bonding requirements.

2) A notice of application for an underground injection permit must be mailed to each current operator, lease owner and surface owner within the review area on or before the date the application is mailed to or filed with the BOGC.

3) Well abandonment plans must be filed with and approved by the BOGC. When wells have been plugged and the project completed, the land surface must be restored.

Rule: ARM 36.22.1307 and 36.22.1403-1425

4. **Fees**

The Board collects an annual injection fee of $200 for each injection well.

Rule: ARM 36.22.1423

UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS

1. **Types of Activities Regulated**

The Board of Land Commissioners is authorized to lease state lands for the underground storage of natural gas to public utilities that transport or distribute natural gas for ultimate public use.

Statute: 77-3-501 *et seq.*, MCA

Contact: DEPARTMENT NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. **Permitting Procedures**

1) The Board may order a hearing prior to issuance of a lease. A lessee must furnish a bond to indemnify the state against damage or loss.

2) Lease terms may not exceed 20 years. The lessee has a preferential right to renewal.

3. **Criteria**

The lessee must use all reasonable precautions to prevent waste of oil or gas developed on the land or injury to oil or gas deposits.

PARKS AND RECREATION

BOATING

1. Types of Activities Regulated

All owners of motorboats and sailboats 12 feet in length or longer[1] must obtain a certificate of title from the Montana Department of Justice or the local county treasurer's office before operating the boat in state waters. Vessels must be properly numbered and display a valid registration decal. See also RIVER RECREATION, p. 131.

Statute: 23-2-508 *et seq.*, MCA
61-3-101, *et seq.*, MCA

Rule: ARM 12.11.325-340

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

DEPARTMENT OF JUSTICE
Motor Vehicle Division

2. Additional Information

A. Boat Racing

Written permission from the Montana Department of Fish, Wildlife and Parks (FWP) is required for any person who plans to conduct a boating race, regatta or other marine event on Montana's waters. Letters of application should be sent to FWP at least 30 days before the scheduled event.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

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[1] Canoes and kayaks using sails are exempt.

B. Noise Restrictions

Motorboats or personal watercraft that emit noise greater than 86 dbA when measured at a distance of 50 feet or emit exhaust noise in excess of 90 dbA when measured at a distance of one meter from the muffler at idle speed are considered a public nuisance and constitute disorderly conduct. Noise standards for certain lakes are more restrictive because of population density and heavy recreational use. Motorboats or personal watercraft operated on Flathead Lake, Echo Lake or Swan Lake may not operate near the shoreline if the noise level is greater than 75 dbA measured at the shoreline.

Statute: 23-2-521(3), 523(9) and 526(3), MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

C. Discharge of Waste Prohibited

It is illegal to discharge garbage, refuse, waste or sewage from any vessel into or near state waters.

Statute: 23-2-522, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

CAMPGROUNDS - TRAILER COURTS - WORK CAMPS - YOUTH CAMPS

1. Types of Activities Regulated

Licenses from the Montana Department of Public Health and Human Services (DPHHS) are required for operating campgrounds, trailer courts, work camps and youth camps and validation must be obtained from the local health officer or sanitarian. Acceptable plans must be submitted to the DPHHS and the local health department. Operators of water supply systems for trailer courts must be certified by the Board of Water and Wastewater Operators. Trailer courts, work camps and campgrounds may also require review under the subdivision laws. See PUBLIC WATER SUPPLY, p. 164 and SUBDIVISIONS, p. 150.

Statute: 50-52-101 *et seq.*, MCA

Rule: ARM 37.111.201 *et seq.* (trailer courts and tourist campgrounds)
ARM 37.111.601 *et seq.* (work camps)

ARM 37.111.501 *et. seq.* (youth camps)

Contact: LOCAL GOVERNMENT
Health Department

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Food and Consumer Safety Section

2. **Application Requirements**

Application for a license to operate a tourist campground, trailer court or youth or work camp must be made to the DPHHS on appropriate forms. All applicants must submit detailed information about the proposed facilities to the DPHHS and the local health authority for approval before beginning construction. Licenses expire December 31st of the year issued.

Statute: 50-52-201 and 203, MCA

3. **Permitting Procedures**

1) The local health officer must validate the license within 15 days after issuance by the DPHHS. If the local health officer refuses to validate the license on finding that not all conditions of the license have been met, the health officer must notify the applicant and the department in writing, stating the reasons for the refusal.

2) A refusal to validate by the local health officer may be appealed to the local Board of Health within 30 days after receiving written notification of the local health officer's decision.

Statute: 50-52-208 and 209, MCA

4. **Fees**

The fee for an annual license is $40. A late fee penalty of $25 may be assessed for failure to renew a license prior to its expiration date.

Statute: 50-52-202, MCA

OFF-HIGHWAY VEHICLES

1. Types of Activities Regulated

No off-highway vehicle may be operated on public lands, trails, easements, lakes, rivers or streams unless issued a certificate of title and registered with the county treasurer's office. Registration decals must be displayed at a conspicuous place on the vehicle as proof that fees have been paid for the current year.

An off-highway vehicle owned by a nonresident that is not registered in another state may not be operated in Montana without a nonresident temporary-use permit.

Statute: 23-2-801 *et seq.*, MCA
61-3-101, *et seq.*, MCA

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

DEPARTMENT OF JUSTICE
Motor Vehicle Division

RIVER RECREATION

1. Types of Activities Regulated

The public has the right to the recreational use of the state's rivers and streams regardless of streambed ownership, but the Montana Fish, Wildlife and Parks Commission has the authority to limit, restrict or prohibit activities to promote public health, safety and welfare and to protect property and public resources. Restrictions on uses such as the use of motorized watercraft exist in a number of areas. For use and area restrictions, contact the Montana Department of Fish, Wildlife and Parks (FWP). See also BOATING, p. 128.

Statute: 23-2-302 *et seq.*, 23-2-523, 531, 87-1-303 and 306, MCA

Rule: ARM 12.4.101 *et seq.*, 12.6.801-802 and 12.6.901-904

Contact: FISH, WILDLIFE AND PARKS COMMISSION

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

2. **Additional Information**

A. Recreational Use Restrictions for the Beaverhead and Big Hole Rivers

There are biennial rules addressing the regulation and distribution of river recreation use for the Beaverhead and Big Hole Rivers. Please contact FWP for more information.

B. Smith River Float Permits

A permit is required for private floats on the Smith River. From April to October, a per person fee is charged. Applicants must send a completed application form, a list of up to three preferred launch dates and the required fee to the FWP Helena Office by February 15th. Applications received by this date will be entered into a random drawing, with preferred launch dates awarded in the order they are drawn. Following the drawing, applications are considered on a first-come, first-served basis.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Helena Office

SNOWMOBILES

1. **Types of Activities Regulated**

Before operating a snowmobile on public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways, the owner must obtain a certificate of title and registration decal from the Montana Department of Justice or the local county treasurer's office. The registration decal must be displayed in a conspicuous place on the cowl of the vehicle.

A valid driver's license is required to operate a snowmobile on a public roadway unless the operator has taken an approved snowmobile safety education course and is in the presence and under the supervision of a person who is 18 years of age or older.

Nonresidents who own and wish to operate an out-of-state snowmobile in Montana must obtain a nonresident temporary-use permit prior to operation.

Statute: 23-2-601 *et seq.*, MCA
63-1-101, *et seq.*, MCA

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

DEPARTMENT OF JUSTICE
Motor Vehicle Division

2. **Additional Information**

A. Noise Restrictions

Snowmobiles must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order. In addition, the following noise levels, measured at a distance of 50 feet, may not be exceeded:

1) 82 dB(A) for machines manufactured from June 30, 1972 to June 30, 1975, and

2) 78 dB(A) for machines manufactured after June 30, 1975.

The noise restrictions do not apply to snowmobile races or competitive events held on private lands or those held on public lands provided consent from the appropriate government authority is obtained and the total sound produced does not exceed 50 dB(A) at any point 50 feet or more outside the area under the control of the sponsoring entity.

Statute: 23-2-634, MCA

Rule: ARM 12.6.602

B. Use on Public Waters

All public waters within the state of Montana are closed to snowmobile operation. Snowmobiles may cross or enter upon public water if the water is frozen or if it is necessary to cross a small stream to continue travel on snow. When it is necessary to cross a stream, the stream crossing must be perpendicular to the flow of the stream.

Statute: 23-2-501 and 87-1-303, MCA

Rule: ARM: 12.11.331

STATE PARKS

1. Types of Activities Regulated

The Montana Department of Fish, Wildlife and Parks (FWP) regulates certain park activities, for example, the number of vehicles per camp-site and the areas where campfires may be burned.

Resident's are entitled to use any of Montana's state parks by paying the $4 fee included with a individual's motor vehicle registration. Overnight camping fees are an additional $12 to $15 a day.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Parks Division

HAZARDOUS WASTE DISPOSAL

1. Types of Activities Regulated

A waste meets the definition of hazardous waste if it is included in an EPA list of specific hazardous wastes, demonstrates any of the characteristics of ignitability, corrosiveness, reactivity or toxicity under standard test procedures, or is a mixture of any waste and one or more listed hazardous wastes. Hazardous wastes may only be transported, stored, treated, disposed of or used for the purposes of resource conservation or recovery in a manner consistent with state and federal law. Hazardous wastes must be properly contained and labeled.

A permit from the Montana Department of Environmental Quality (DEQ) is required to construct or operate a hazardous waste management facility for the treatment, storage or disposal of hazardous wastes.

Certain wastes are exempt from the regulations of the Montana Hazardous Waste Act: for information on these exempt wastes, contact the DEQ.

Statute: 75-10-401 *et seq.*, MCA (Montana Hazardous Waste Act)

Rule: ARM 17.53.101 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

The permit application for a hazardous waste management facility is divided into two parts, A and B. Part A is a short standard form calling for general information that includes the name of the applicant and a description of the activities of the facility.

Part B makes up the bulk of the RCRA (federal Resource Conservation and Recovery Act) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements.

A permit may be issued for a period specified by the DEQ, and is subject to either renewal or revocation depending on compliance with the permit's provisions.

Statute: 75-10-406, MCA

Rule: ARM 17.53.1201 and 1202

3. **Permitting Procedures**

1) The DEQ may, in the event of an imminent and substantial danger to public health or the environment, issue a temporary emergency permit to any person for treatment, storage or disposal of hazardous waste or to any facility to handle hazardous waste not covered by the existing facility permit.

2) The DEQ may grant permits to certain hazardous waste management facilities if the owner or operator already holds a license or permit from the DEQ pursuant to other state environmental statutes, or for an interim period, until final administrative action on a permit application is made.

3) If it is determined that an application for a certificate under the Montana Major Facility Siting Act (MFSA) will result in the generation, transportation, storage or disposal of hazardous wastes, the DEQ must conduct its review concurrently with the studies of air and water quality conducted under the provisions of the MFSA. See MAJOR FACILITY SITING, p. 46.

Statute: 75-10-405, 406 and 407, MCA

4. **Fees**

The DEQ assesses an application fee and a permit modification fee to defray the costs of processing applications for permits or permit modifications.

Statute: 75-10-405(i), 432 and 433, MCA

Rule: ARM 17.53.112

5. **Criteria**

The DEQ may deny an application or impose conditions on a permit if the applicant, within the five years before the date of application, has a record of complaints and convictions for the violation of environmental protection laws. In making the decision to deny a permit or impose conditions, the department will consider the number and severity of the violations, the culpability and cooperation of the applicant and other factors.

Statute: 75-10-427, MCA

6. **Additional Information**

A. Generators/Transporters

Generators and transporters of hazardous waste must comply with state and federal reporting requirements, including the use of a manifest system for tracking the movement of all hazardous wastes.

Persons who generate hazardous waste (with certain exceptions) are required to maintain an annual generator registration and to pay a registration fee each year, in addition to obtaining an identification number.

Persons who transport hazardous wastes are required to notify the DEQ and to obtain an identification number. A hazardous waste transfer facility must also comply with regulations established by the DEQ.

Rule: ARM 17.53.601 *et seq.* and 17.53.701 *et seq.*

B. Variances

A person who is a generator or transporter of hazardous wastes or who owns or operates a hazardous waste management facility may apply to the Board of Environmental Review for a variance or partial variance from the application of or compliance with any requirement of the Montana Hazardous Waste Act or any rule adopted under the act.

Statute: 75-10-408, MCA

INCINERATORS - HAZARDOUS WASTE/BOILERS AND INDUSTRIAL FURNACES

1. **Types of Activities Regulated**

A permit is required for a boiler and industrial furnace that burns hazardous waste or for a hazardous waste incinerator. The owner or operator must submit an application to the Montana Department of Environmental Quality (DEQ) prior to construction or operation. In addition, the applicant must obtain an air quality permit, or if applicable, an air quality permit modification from the DEQ prior to construction or operation (see AIR QUALITY PERMITS, p. 32).

Statute: 75-10-401 *et seq.*, MCA

Rule: ARM 17.53.801 *et seq.* (hazardous waste incinerators)
ARM 17.53.1001 *et seq.* (BIFs)

40 C.F.R. § 264, subpart O (hazardous waste incinerators)
40 C.F.R. § 266, subpart H (BIFs)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau
Waste and Underground Tank Management Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. **Application Requirements**

The permit application is divided into two parts, A and B. Part A is a short standard form calling for general information which includes the name of the applicant and a description of the activities of the facility.

Part B makes up the bulk of the RCRA (federal Resource Conservation and Recovery Act) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements. Part B must also contain the *trial burn plan*, describing the engineering details of the system and outlining a plan for demonstrating compliance with performance standards, and for establishing limits on certain operating conditions that will become part of the facility's permit.

Statute: 75-10-405 and 406, MCA

Rule: ARM 17.53.1201 and 1202

3. **Permitting Procedures**

1) The applicant must submit parts A and B of the application to the DEQ.

2) The department conducts a completeness review of the application to determine that all required information and documents have been included in the application. If the application is incomplete, the agency issues a Notice

of Deficiency (NOD). When the applicant has submitted all the required information and documentation, the DEQ will issue a notice of completeness.

3) The DEQ then conducts a technical review, analyzing the technical information submitted in the application to determine whether the facility will meet the appropriate requirements. Additional NODs may be issued.

4) The DEQ will then issue a draft permit or a notice of denial.

5) Public notice is given and a public hearing is held.

6) The DEQ then makes a final decision and issues a final permit. The department must respond to public comments on the final permit and must indicate where changes to the draft permit have been made.

7) If applicable, appeals are made. The facility owner/operator may challenge the denial of a permit or a condition of a permit.

4. Fees

The DEQ assesses an application fee and a permit modification fee to defray the costs of processing applications for permits or permit modifications.

Statute: 75-10-405(i), 432 and 433, MCA

Rule: ARM 17.53.112

5. Additional Information

Commercial Medical Waste or Hazardous Waste Incinerators

Commercial medical waste and commercial hazardous waste incinerators have special requirements in addition to those under the Montana Clean Air Act (see AIR QUALITY PERMITS, p. 32); and the Montana Solid Waste Management Act (see SOLID WASTE - HAZARDOUS WASTE, p. 135), Commercial medical waste and commercial hazardous waste incinerators must achieve the lowest achievable emission rates as identified by DEQ rules for dioxins, furans, heavy metals and other hazardous air pollutants to prevent risk to public health. The plan for a commercial hazardous waste incinerator must include a scheme for the cessation of burning if site-specific monitoring determines that inversion conditions, as defined by DEQ rule, exist. If the facility is close to a populated area, the department may require the owner or operator of an existing commercial hazardous waste incinerator

or an applicant for an air quality permit for a commercial hazardous waste incinerator to provide telemetering service to the DEQ with an immediate notification system activated when emissions approach or exceed permitted limits.

The definition of commercial medical waste incinerator does not include hospital or medical facilities that primarily incinerate medical waste generated onsite.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau
Waste and Underground Tank Management Bureau

Statute: 75-2-230 and 231, MCA

Rule: ARM 17.8.740 *et seq.*

A statement disclosing if the applicant has had a record of complaints and convictions for the violation of environmental protection laws is required for the issuance, transfer or alteration of an air quality permit for a commercial medical waste or commercial hazardous waste incinerator. The DEQ may deny an application or impose conditions on a permit based on an applicant's compliance history.

Statute: 75-2-232 and 233, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau

MOTOR VEHICLE WRECKING FACILITIES

1. Types of Activities Regulated

An annual license is required from the Montana Department of Environmental Quality (DEQ) to operate a motor vehicle wrecking facility. Possession at a single location of four or more junk vehicles is presumptive evidence that the possessor is operating a motor vehicle wrecking facility. One or more junk vehicles at a single location must be shielded from public view.

Statute: 75-10-502, 505 and 511, MCA

Rule: ARM 17.50.201-202

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

An application for a license to operate or maintain a private wrecking facility or a county program junk vehicle graveyard can be obtained from the DEQ and must include certification from the appropriate local government officials that the proposed facility does not violate local zoning ordinances. The license expires on December 31st of the year issued.

Statute: 75-10-504, 511 and 516, MCA

3. Permitting Procedures

1) The DEQ may deny, suspend or revoke a motor vehicle wrecking facility's license for reasons of theft, forgery, omission, fraud or rule violation.

2) The DEQ's decision to deny, suspend or revoke a license may be appealed by the applicant to the Board of Environmental Review within 30 days of the decision.

Statute: 75-10-514 and 515, MCA

Rule: ARM 17.50.201 and 206

4. Fees

The DEQ requires an annual fee of $50 for a motor vehicle wrecking facility license.

Statute: 75-10-511, MCA

5. Additional Information

The owner of a motor vehicle wrecking facility must keep a record of every junk vehicle obtained and mail a quarterly report to the Montana Department of Justice, Motor Vehicle Division with the required information.

Contact: DEPARTMENT OF JUSTICE
Motor Vehicle Division
Title and Registration Bureau

Statute: 75-10-512 and 513, MCA

Rule: ARM 17.50.207

RADIOACTIVE WASTE DISPOSAL

1. Types of Activities Regulated

Disposal of a *large quantity* of radioactive material, byproduct material and special nuclear material is prohibited in Montana. The prohibition includes nuclear fuels, nuclear power plant wastes and uranium or thorium mill tailings. Certain special use materials (educational, scientific, research and medical, etc.) are exempt from this prohibition.

Statute: 50-79-101 and 302, MCA (Montana Nuclear Regulation Act)

Contact: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Quality Assurance Division

SOLID WASTE DISPOSAL (NONHAZARDOUS)

1. Types of Activities Regulated

A license is required from the Montana Department of Environmental Quality (DEQ) for the disposal of solid waste and for the operation of a solid waste management system. In certain circumstances, the on-site disposal of solid wastes from a person's household or farm and certain categories of on-site industrial waste disposal operations are excluded from this licensing requirement. Sites are approved and licensed by the DEQ and validated by local health officials. *Solid waste* means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply treatment plants or air pollution control facilities; construction and demolition wastes; dead animals; discarded home and industrial appliances; and wood products or byproducts and inert materials. Solid waste does not mean municipal sewage, industrial wastewater effluents, mining wastes, slash and forest debris regulated by the Montana Department of Natural Resources and Conservation, or marketable wood byproducts.

Megalandfills, landfills that receive more than 200,000 tons of solid wastes per year or monofills that receive more than 35,000 tons of either fly ash or bottom ash per year, are subject to additional siting and licensing controls. (An existing solid waste landfill that accepted 100,000 tons a year of solid waste as of December 31, 1991 is not considered a megalandfill until it accepts more than 300,000 tons a year of solid waste.) The Board of Environmental Review (BER) must issue a certificate of site suitability before a megalandfill may be constructed. Social, environmental and economic impacts of the proposed landfill must be considered in the review process. The DEQ's licensing process and the BER's certification process must proceed concurrently and in a coordinated fashion.

Statute: 75-10-201 *et seq.*, MCA (Solid Waste Management Act)
75-10-901 *et seq.*, MCA (Megalandfill Siting Act)

Rule: ARM 17.50.501 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

A person applying for a license to conduct solid waste disposal or to operate a solid waste management system must submit a license application to the DEQ on forms furnished by the department. The application must include the applicant's name and business address, the location of the proposed facility, the plan of operation and other information as requested.

Statute: 75-10-221(2) and (3), MCA

Rule: ARM 17.50.508 and 509

3. Permitting Procedures

A. Time Requirements: The DEQ will notify the applicant if additional information is required. The department must notify the local health officer within 15 days of receipt of the completed application.

B. An Environmental Assessment (EA) is conducted during the solid waste application review process. If indicated by the EA, an Environmental Impact Statement (EIS) may be required (see MONTANA ENVIRONMENTAL POLICY ACT, p. 114).

C. Public Notification, Hearings, Appeal of Denial

1) The DEQ must send one copy of its proposed decision to the applicant and three copies to the local health officer for public posting.

2) Publication of the proposed decision is required in local newspapers and by electronic means.

3) The public has 30 days to submit written comments.

4) The DEQ notifies the local health officer of the final decision after the 30-day comment period. The local health officer then has 15 days to validate or refute the decision.

5) If either the DEQ or the local health officer denies the application for a license, the applicant has 30 days to appeal the decision.

Statute: 75-10-222 through 224, MCA

Rule: ARM 17.50.513 and 514

4. **Fees**

The department charges a license application fee for any new solid waste management facility or for a substantial change to an existing facility. The department also charges an annual license renewal fee to cover the costs of annual renewals and inspections. Disposal facilities pay a base fee for the type and size of the facility, and an annual per-ton fee on wastes received by the facility. This disposal fee is set at 31 cents per ton for in state waste, and an additional 27 cents for out-of-state waste. All fees are deposited into an earmarked revenue account and are used to support a portion of the costs of the DEQ's solid waste program.

Statute: 75-10-115 and 118, MCA

Rule: ARM 17.50.411 and 415

5. **Additional Information**

A. Variances

A person may apply to the Board of Environmental Review for a variance from the rules issued pursuant to the Montana Solid Waste Management

Act. The Board may grant a variance if it finds that 1) failure to comply with the rules does not result in a danger to public health or safety, or 2) compliance with the rules would produce hardship to the applicant without producing benefits to the public health and safety that outweigh the hardship.

Statute: 75-10-206, MCA

Rule: ARM 17.50.602-603, 605-606 and 609-611

B. Cesspools, Septic Tanks and Privies

See SEPTIC TANKS, CESSPOOLS AND PRIVIES, p. 166).

UNDERGROUND STORAGE TANKS

TANK INSTALLERS AND INSPECTORS

1. Types of Activities Regulated

Those who install, close, inspect or oversee the installation, closure, compliance or inspection of underground storage tanks (UST) must have a valid license issued by the Montana Department of Environmental Quality (DEQ). Within 30 days of completion of a UST system activity, the licensee must submit a completed checklist and a copy of the signed permit to the department and to the owner or operator of the tank. A permit is required from the DEQ for most tank work on certain tanks (see exemptions on the following page). All UST facilities must have a compliance inspection conducted by a DEQ-licensed compliance inspector every three years.

Statute: 75-11-201 *et seq.*, MCA (Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act)
75-11-509, MCA (Montana Underground Storage Tank Act)

Rule: ARM 17.56.1301 *et seq.* and 17.56.1401 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

An applicant for a license must be at least 18 years of age, submit a license application on a form provided by the DEQ, pass the licensing examination and pay the required fee.

Statute: 75-11-210, MCA

Rule: ARM 17.56.1401 *et seq.*

3. **Fees**

The license application and examination fee is $100 and the annual renewal fee is $50.

Rule: ARM 17.56.1404

TANK OWNERS AND OPERATORS

1. **Types of Activities Regulated**

Tank Registration and Standards: Owners and operators of underground storage tanks (USTs) and aboveground storage tanks with underground lines must register each tank with the Montana Department of Environmental Quality (DEQ). UST registration fees are assessed annually. Tank systems must meet certain standards for construction and design, corrosion protection and leak detection.

Permits for Tank Installations, Modifications, Repairs or Closures: Permits are required from the DEQ for tank or piping installations or closures, for modifications, linings or repairs, and for the installation of cathodic protection (to prevent corrosion) and vapor or ground water monitoring wells at existing installations. See also TANK INSTALLERS AND INSPECTORS, p. 145.

Operating Permit: An owner or operator of a UST may not place a regulated substance in the tank unless an operating permit has been issued by the DEQ.

Exemptions: Certain underground tanks are exempt from the provisions of the Montana Underground Storage Tank Act, including: noncommercial motor fuel tanks and heating oil tanks and their underground piping *provided that* 1) they are located at farms or residences, 2) they have a capacity of 1,100 gallons or less and 3) they were installed prior to April 27, 1995.

Statute: 75-11-501 *et seq.,* MCA (Montana Underground Storage Tank Act)
42 U.S.C. §§ 6901-6987 (federal Resource Conservation and Recovery Act)

Rule: ARM 17.56.101 *et seq.* and ARM 17.56.306

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

Permits for Tank Installations, Modifications, Repairs or Closures: Permit applications must be submitted at least 30 days before beginning any tank work. In the event of an emergency requiring immediate UST system work, the DEQ may issue an emergency permit valid for no more than 10 days.

Operating Permit: In order to obtain an operating permit, the owner or operator of a UST system must file with the DEQ an inspection report signed by a licensed inspector that certifies that the operation and maintenance of the tank complies with relevant DEQ laws and rules.

Rule: ARM 17.56.308 and 17.56.1301 *et seq.*

3. Installation, Operation and Closure Requirements

Permits for Tank Installations, Modifications, Repairs or Closures: Tank installations or closures must either be completed by a person licensed for UST work, or if completed by the owner or operator, then the work must be inspected by a licensed inspector. For tank installations, the licensee, owner or operator must certify that the tank and piping are properly installed according to industry codes, that the tank and piping are protected from corrosion, that the system will be monitored to detect a release within a 30 day period and that the tank is equipped with devices that prevent spills and overfills. A licensee, owner or operator must notify the DEQ of a suspected or actual leak within 24 hours of discovery. The owner or operator must submit proof of financial responsibility guaranteeing that cleanup costs can be paid should a tank leak occur. For tank closures, an environmental site assessment must be conducted that includes the collection and analysis of soil samples to evaluate the condition of the site after tank closure or removal. See PETROLEUM TANK RELEASE CLEANUP FUND, below.

Operating Permit: The DEQ will issue an operating permit and tag for each UST in compliance with the program's requirements. The operating tag must be visibly affixed to each tank's fill pipe or to another visible part of the tank if affixing the tag to the fill pipe is impracticable. If an operating permit expires or is revoked, tags must be removed and returned to the DEQ. The department may authorize a temporary permit for tanks that do not meet the operating permit requirements only if it requires, in a compliance order, that the noncompliance be corrected at the earliest practicable time. Operating permits are valid for 3 years.

Rule: ARM 17.56.308, 309 and 17.56.1301 *et seq.*

4. **Fees**

The annual registration fee for a tank with a capacity of 1,100 gallons or less is $36, and for a tank with a capacity greater than 1,100 gallons is $108.

Permit review and inspection fees are assessed for tank installations, closures and modifications. Fees vary according to the type of tank and the intended work.

Rule: ARM 17.56.1001 and 17.56.1301 *et seq.*

5. **Variances**

A person may apply for a variance from a requirement or procedure of the underground storage tank program by requesting the approval of an alternative from the DEQ. Certain conditions apply.

Rule: ARM 17.56.105

6. **Additional Information**

A. Aboveground Storage Tanks

The Montana Department of Justice, Fire Prevention and Investigation Program regulates the installation, operation and removal of aboveground storage tanks to ensure safety from fire and verify compliance with the Uniform Fire Code (UFC). The unauthorized discharge or release of flammable or combustible liquids and petroleum waste products must be handled as set forth in Section 8001.5.2 of the U.F.C. Discharges or releases may also be regulated under the federal Clean Water Act in the event the discharge or release enters *navigable waters*.

Rule: U.F.C. § 5201.3.2, 5301.3, 7901.7.1 and 7901.3

Contact: DEPARTMENT OF JUSTICE
Division of Criminal Investigation
Fire Prevention and Investigation Program

B. Petroleum Tank Release Cleanup Fund:

The state has established a Petroleum Tank Release Cleanup Fund to financially assist owners and operators with the cleanup and damages caused by an accidental tank release. Contact the Petroleum Release Compensation Board for information on qualifying for financial assistance with tank releases.

Statute: 75-11-301 through 321, MCA

Rule: ARM 17.58.101-343

Contact: PETROLEUM TANK RELEASE COMPENSATION BOARD

DEPARTMENT OF ENVIRONMENTAL QUALITY
Remediation Division
Hazardous Waste Site Cleanup Bureau

SANITATION IN SUBDIVISIONS

1. Types of Activities Regulated

Condominiums, mobile home parks, recreational vehicle parks and divisions of land that create a parcel of less than 20 acres are subject to sanitary review. A person may not dispose of any lot within a subdivision, erect any facility for the supply of water or disposal of sewage or solid waste, erect any building or shelter in a subdivision that requires facilities for the supply of water or disposal of sewage or solid waste, or occupy any permanent buildings in a subdivision until the subdivision has been reviewed and approved by the Montana Department of Environmental Quality (DEQ) or by the local reviewing authority if the DEQ has certified a local department of Board of Health. Subdivisions within the jurisdictional areas that have growth policies that meet the requirements described in statute (76-1-601, MCA) or within a first-class or second-class municipality and for which municipal water, sewage disposal, solid waste and storm drainage will be provided are not subject to review, but will be required to provide a notice of certification of adequate municipal facilities (municipal facilities checklist).

Statute: 76-4-101 *et seq.*, MCA (Sanitation in Subdivisions Act)

Rule: ARM 17.36.101 *et seq.*; local regulations

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Public Water Supply and Subdivisions Bureau

LOCAL GOVERNMENT
Health Department

2. Application Requirements

An applicant planning to subdivide land must submit a completed subdivision application form, along with supporting information (see ARM 17.36.103), to the DEQ. If the DEQ has certified a local department or Board of Health to review subdivisions, the application must be submitted to the local reviewing authority.

Statute: 76-3-504, 603, 76-4-104 and 125, MCA

Rule: ARM 17.36.101-104

3. **Review Procedures**

A. On receipt of a subdivision application, resubmittal or additional information provided by the applicant, the DEQ has 60 days for final action. If an Environmental Impact Statement is required, final action must be taken within 120 days. See MONTANA ENVIRONMENTAL POLICY ACT, p. 114.

B. If a local government or Board of Health has been certified as the reviewing authority, it has 50 days to recommend action on the application to the DEQ. The DEQ then has 10 days to take final action. If the application is denied, the statutory time limits begin again once a response has been received.

Rule: ARM 17.36.106 and 108

4. **Criteria**

The DEQ's rules set standards and procedures relating to size of lots, topography, geology, hydrology, type of facilities proposed and other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation and wildlife. There must be adequate water supply, drainage, sewage and solid waste disposal systems. The DEQ will issue a certificate of subdivision approval when it is satisfied that adverse impacts to state waters will not occur and the water supply is of adequate quantity, quality and dependability; the sewage disposal facility is sufficient in terms of capacity and dependability; and the solid waste disposal and storm drainage plans and designs are in accordance with state and local laws and regulations.

Rule: ARM 17.36.101 *et seq.*

5. **Fees**

A schedule of fees is set out in the rules. Contact the DEQ, see the fee schedules in the rules or the fee checklist with the application materials.

Statute: 76-4-105, MCA

Rule: ARM 17.36.801 *et seq.*

6. **Additional Information**

If there is a denial of approval of the subdivision that relates to environmental health facilities, the aggrieved developer may request a hearing before the Board of Environmental Review.

Statute: 76-4-126, MCA

SUBDIVISION AND PLATTING ACT

1. **Types of Activities Regulated**

A. Divisions of land creating parcels less than 160 acres in size, condominiums and mobile home or recreational vehicle parks are regulated under the Montana Subdivision and Platting Act and rules pursuant to the act.

A title to subdivided land may not be sold or transferred until a certificate of survey or a final subdivision plat (if required) approved by the governing body has been filed with the county clerk and recorder.

B. Exemptions: There are numerous exemptions established in Title 76, Chapter 3, Part 2, MCA. In addition, a certificate of survey and certification that property taxes and special assessments have been paid, but not final subdivision plat approval, are required for the following divisions of land under certain conditions: divisions for the purpose of relocation of common boundaries; a one time gift or sale to an immediate family member (one per family member per county); and under certain conditions, transfers which include a covenant running with the land that provides exclusively for agricultural use of the land.

Some exemptions may not be allowed if their purpose is to evade the Montana Subdivision and Platting Act. Local governments may adopt evasion criteria as part of their subdivision regulations. These criteria are used in evaluating whether or not a proposed exemption represents an intention to evade the requirements of the act.

Statute: 76-3-101 *et seq.*, MCA

Rule: ARM 8.94.3001 *et seq.*

Contact: LOCAL GOVERNMENT

2. Review Procedures

1) General Information: Cities, counties and towns are required to adopt subdivision regulations that establish procedures for submission and review of subdivision plats. The procedures vary depending on the size and nature of the proposed subdivision and whether or not a planning board has been appointed. Expedited review is allowed under certain conditions (see 4. Additional Information). A general overview of the procedures that apply to most major subdivisions (a *major subdivision* creates six or more parcels; a *minor subdivision* creates five or fewer parcels) is provided below.

   For jurisdictions with planning boards, the review may be two-tiered: the planning board conducts the initial review and acts in an advisory capacity, and the final decision is made by the governing body. For areas without planning boards, the governing body is the only reviewing entity. In most jurisdictions, a subdivision administrator (planner or sanitarian) will be the subdivider's initial contact person and liaison.

2) A preliminary plat and an environmental assessment must be submitted to the governing body. A fee may be assessed by the governing body to defray the expense of subdivision review. Although not required by law, many jurisdictions have a pre-application review process to ensure that the subdivider is aware of applicable requirements. Certain subdivisions are exempt from the requirement for an environmental assessment.

3) The local government, after notice and a public hearing, approves, conditionally approves or disapproves the preliminary plat. The governing body must make its final decision within 60 working days of presentation of the preliminary plat (35 days for minor subdivisions) unless an extension is agreed to by the developer. If the governing body conditionally approves or denies approval of the subdivision, it must provide a written statement to the applicant that includes: the reason for the denial, the evidence to justify the decision and information about the appeal process.

4) In general, the developer of a major subdivision must donate a portion of the subdivided land for public parks. A cash contribution may be accepted in lieu of a land donation.

5) The preliminary plat may be approved for one to three years. Certain extensions are permitted.

6) The subdivision must be surveyed by a registered land surveyor. The final plat and certificate of title must be submitted to the governing body. The final plat must be approved by the governing body if it conforms with the

conditions imposed on the preliminary plat and all property taxes and special assessments have been paid.

7) Compliance with the Sanitation in Subdivisions Act is required before a final plat that creates parcels of less than 20 acres may be filed with the County Clerk and Recorder. See SANITATION IN SUBDIVISIONS, p. 150.

8) The subdivider may bring an action in District Court to recover damages if the governing body makes a decision that is arbitrary or capricious under the Subdivision and Platting Act. Certain aggrieved parties may appeal a decision on a preliminary or final plat to the District Court within 30 days.

Statute: 76-3-504 through 507, 510, 601 through 612, 620, 621 and 625, MCA

3. Criteria

The Montana Subdivision and Platting Act establishes minimum requirements for local subdivision regulations. Local subdivision regulations include both procedural and substantive requirements. Among other things, the regulations must include standards for design of lots, streets, and roads; grading and drainage; and for water supply, sewage and solid waste disposal at least as stringent as Montana Department of Environmental Quality rules.

In reviewing a proposed subdivision, the governing body must consider: 1) compliance with local subdivision regulations; 2) compliance with surveying requirements; 3) provision and recording of legal and physical access to each lot within the subdivision; 4) provision of easements for any planned utilities; and 5) the subdivision's effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and pubic health and safety (the *public interest criteria*). The local government may waive review of the public interest criteria in areas where a growth policy and zoning regulations are in place.

Statute: 76-3-504 and 608, MCA

4. Additional Information

Local subdivision regulations must provide for summary review procedures for minor subdivisions that meet certain requirements. Minor subdivisions eligible for summary review that are located within an area covered by a growth policy and county or municipal zoning regulations are exempt from the requirements to hold a public hearing on the preliminary plat as well as review of the public interest criteria listed in the previous section. The governing body must make a decision regarding a subdivision eligible for summary review within 35 calendar days of submission of the application.

ELECTRICITY AND GAS SUPPLIERS

The Public Service Commission (PSC) is authorized to license electricity and gas suppliers. The PSC must promulgate and enforce rules that identify suppliers and ensure that the supply is provided as offered and is of adequate quality, safety and reliability. The Commission may revoke or suspend a license on a complaint or on its own investigation after conducting a hearing. For electricity suppliers, the PSC may go to court for fines for violations, which include fraud and deceptive practices, switching without the customer's permission or a licensee's failure to provide an adequate supply.

Statute: 69-8-403, 404 and 408, MCA (electricity suppliers)
69-3-1405, MCA (gas suppliers)

Contact: PUBLIC SERVICE COMMISSION
Utility Division

HIGHWAY UTILITY EASEMENTS

1. Types of Activities Regulated

Utility facilities used to transport or distribute hydrocarbons, electric power, energy, communication signals, water and sewage are authorized to occupy highway rights-of-way if they conform to certain standards approved by the Montana Department of Transportation (MDT), (see also HIGHWAY ENCROACHMENTS, p. 61). All other facilities are considered privately owned and must receive a permit from the MDT before being constructed in a highway right-of-way. City councils and Boards of County Commissioners may grant similar approval along city streets and county roads.

Statute: 7-13-2101 and 4101, MCA

Rule: ARM 18.7.201 *et seq.* and 18.7.221-241

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF TRANSPORTATION
Area Maintenance Bureau

2. **Permitting Procedures**

1) The utility must prepare and submit a notice of its proposed occupancy to the appropriate division office of the MDT. The notice must be submitted in triplicate, accompanied by utility plans showing the locations of the proposed facilities in relation to the highway.

2) The division supervisor or chief will review the occupancy proposed by the utility. If the proposal conforms with certain standards, specified by rule, the supervisor must sign it, and if not, the supervisor must specify in writing the reasons the proposal does not comply. Standards include preserving the natural environment to the greatest extent possible, maintaining the facility and avoiding hazards or conflicts between the highway and the facility.

3) The utility may resubmit its proposal after making the necessary changes to comply with the standards.

Rule: ARM 18.7.232

IMPROVEMENT AND UTILITY DISTRICTS

1. **Types of Activities Regulated**

A number of means of funding are available to cities and counties for the construction of capital improvements such as streets, malls, lighting, parking, water and sewer systems, etc. Provisions vary, but typically, an improvement district may be established by the local government. In some cases, a petition by residents of the district is required. A board of directors may be elected or appointed, or the local government itself may be the authority. The district may sell bonds to finance the improvements, and an assessment is levied on benefitted property to service the bond debt and to operate and maintain the improvements. In some cases, user fees may be assessed. Potential developers should contact local authorities to determine applicable requirements.

Statute: County Water/Sewer Districts:
7-13-2201 *et seq.*, MCA
Industrial Revenue Bonds:
90-5-101 *et seq.*, MCA
Lighting Districts:
7-12-2201 *et seq.*, 7-12-4301 *et seq.*, MCA
Metropolitan Sanitary/Storm Sewer Districts:
7-13-101 *et seq.*, MCA
Municipal Revenue Bonds:

7-7-4401 *et seq.*, MCA
Municipal Sewage/Water Systems:
7-13-4301 *et seq.*, MCA
Public Sewer Systems:
7-13-4201 *et seq.*, MCA
Overhead Facilities Converted to Underground Location:
69-4-301 *et seq.*, MCA
Rural Improvement Districts:
7-12-2101 *et seq.*, MCA
Special Improvement Districts:
7-12-4101 *et seq.*, MCA
Street Parking Districts:
7-12-4501 *et seq.*, MCA

PIPELINES: UNDERGROUND EXCAVATION

1. Types of Activities Regulated

A. Common Carrier Pipelines

An entity owning, operating or managing a pipeline within the state to transport crude petroleum, coal (or products) for others, or intending to do so, may obtain the right to construct and operate pipelines in public streams or highways by filing a written agreement with the PSC to become a common carrier pipeline and assuming the attendant duties and obligations. These pipelines must follow statutory condemnation procedures. The pipelines may not use public streets or alleys without obtaining permission from the city.

Statute: 69-13-101, *et seq.*, MCA

Contact: PUBLIC SERVICE COMMISSION;
CITY OR TOWN COUNCIL;
BOARD OF COUNTY COMMISSIONERS

B. Natural Gas Pipelines

The PSC enforces the safety regulations adopted under the Natural Gas Safety Act of 1968, as amended. This authority extends over intrastate pipeline operators and systems. The PSC also has the power to investigate all methods and practices of pipeline owners and operators, to make report filing requirements, to issue informal reports of probable violations and orders to show cause, to establish formal enforcement procedures, to hold

hearings and to enter onto the property and inspect books and records relevant to the PSC's enforcement responsibilities.

Statute: 69-3-207, MCA

Contact: PUBLIC SERVICE COMMISSION
Utility Division

C. Underground Excavations

Prior to moving earth, rock or other ground material, excluding surface road grading, an excavator must first obtain information from a one-call notification center on the possible location of any underground facility. Every public utility, municipal corporation or anyone with the right to bury underground facilities must be a member of a one-call notification center where the facilities are located. Before beginning, the excavator must then notify the owners of underground facilities through the center. The owners must mark the locations of the facilities within two business days or respond immediately if informed it is an emergency. If the excavator has not excavated within 30 days, the excavator must request relocations and marks and is responsible for the associated costs. Architects and engineers designing projects requiring excavation in a public right-of-way or easement must also obtain information on underground facilities from the owners and then make the information part of the plan.

Statute: 69-3-207and 69-4-501 *et seq.*, MCA

Contact: CITY OR TOWN COUNCIL; BOARD OF COUNTY COMMISSIONERS; PUBLIC SERVICE COMMISSION

UTILITY AND MOTOR CARRIER REGULATION

The Public Service Commission (PSC) regulates the rates and services of privately owned public utilities and has the authority to inquire into their management. Public utilities are defined as entities owning, operating or controlling a plant or equipment for delivering or furnishing heat, light, power, water, sewer or telecommunications services. Electricity and gas suppliers are subject to different regulations, (see below).

The PSC regulates certain types of intrastate motor carriage transportation--issuing Certificates of Public Convenience and Necessity to carriers of passengers, household goods and garbage. Single-state motor carrier licenses are issued through the Montana Department of Transportation, Motor Carrier Services Division. To receive a license,

carriers traveling interstate must show proof of insurance with the Federal Highway Administration.

Utilities owned or controlled by a municipality, town or village or by a county or city-county water or sewer district or water or sewer association are excluded from PSC regulation. The rates and services for these systems are determined by the local government or district.

Statute: 61-3-708 through 710, MCA (single-state registration)
69-3-101 *et seq.*, 69-7-101 *et seq.* and 69-12-101, *et seq.*, MCA

Contact: PUBLIC SERVICE COMMISSION
Utility Division

DEPARTMENT OF TRANSPORTATION
Motor Carrier Services Division

MUNICIPAL GOVERNMENT
City or City-County water or sewer district

UTILITY LINES

1. Types of Activities Regulated

A. Construction of Electric/Telecommunication Lines; Underground Facilities

The city or town council may regulate the erection and stringing of wires, rods, or cables in the streets or alleys or within the limits of the city or town, but not within highway rights-of-way. Corporations, persons or public bodies owning or operating electric power or telecommunication service and supply facilities are authorized to install and construct power or telecommunications lines or wires along and on any public roads, streets and highways in the state, and to erect posts, piers and abutments necessary to support the wires, provided that they do not endanger the public in its use of roads, streets or highways. An entity exercising the right to use these public rights-of-way to construct electric distribution lines and facilities in a new service area must install underground lines where technically and economically feasible.

Landowners, cities, towns, counties, rural electric cooperatives or public utilities that wish to convert existing overhead electric and communication facilities to underground locations may institute special improvement district

proceedings. The governing body on its own initiative or on a petition signed by 60 percent of the property owners owning 60 percent of the land of a proposed district can pass a resolution, make a study and make the study available for inspection in the governing office.

Statute: 7-13-4106, 69-4-101 and 102 and 69-4-301, *et seq.*, MCA

Contact: CITY OR TOWN COUNCIL
BOARD OF COUNTY COMMISSIONERS
Operators of lines

The Public Service Commission (PSC) enforces the National Electric Safety Code, which governs all construction (overhead and underground electrical supply and communication lines) involving wires for power, heat, light, telephone, telegraph or signal transmission or reception. There are exceptions for railroad electrification and private construction of wires less than 450 volts. Cities and towns in the state may not enact any ordinance that conflicts with any provisions of the Code, and conflicting ordinances are void.

Statute: 69-4-102 and 69-4-201, *et seq.*, MCA

Contact: PUBLIC SERVICE COMMISSION
Utility Division

B. Moving/Raising or Cutting Overhead Utility Lines or Poles

Person's moving a structure (i.e., a house, building or derrick) through an area in which wires, cables or poles will impede the move must provide the person owning or controlling the wires, cables or poles at least 10 days written notice of the time and place of the move. Notice must be provided to the principal office of the person owning or controlling the wires, cables or poles and to that person's nearest office in the state (i.e., the local office nearest the wires, cables or poles impeding the move).

At least three days prior to the move or within 10 days after the receipt of the notice of the movement, whichever time is sooner, the person owning or controlling the wires, cables or poles shall give the person moving the structure a written estimate of the total cost of raising or cutting the wires or cables and moving the poles. For public utilities, cable television companies and unregulated telecommunications providers, the estimate must be based on a cost schedule filed with the PSC.

With proper notice of the intended move, the person owning or controlling the wires, cable or poles shall furnish competent workers to raise or cut the wires or cables and move poles as necessary at the designated time and place of the move. The necessary and actual expenses of raising or cutting wires or cables or moving poles are the responsibility of the person moving the structure, except, if the structure is owned by a person for occupancy and use by that person, the person moving the structure and the person owning or controlling the wires, cables or poles shall split the necessary and actual expenses. Prepayment of the estimate by the person moving the structure is required in some instances.

The owner of agricultural lands may petition the District Court for permission to relocate overhead lines for the purposes of installing an agricultural improvement. After a hearing, the court may grant or deny the petition. The owner of the land must pay the costs of relocating the overhead utility line.

Statute: 69-4-401, *et seq.* and 69-4-601, *et seq.,* MCA

Rule: ARM 38.5.2401, *et seq.*

Contact: PUBLIC SERVICE COMMISSION
Utility Division

WATER

If the project requires water use, a water supply, or discharges wastes into state waters, the following regulations may apply.

DAMS AND RESERVOIRS

1. Types of Activities Regulated

The Federal Energy Regulatory Commission licenses and inspects hydropower dams (see HYDROELECTRIC POWER DEVELOPMENT p. 40). The U.S. Department of the Army, Corps of Engineers should be contacted to ensure compliance with regulations governing navigable waters (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11). If the proposed dam facility will be on a stream located on state-owned lands, a lease or license must be obtained from the Board of Land Commissioners (see STATE LANDS, p. 8). The Montana Department of Natural Resources and Conservation (DNRC) should be contacted to acquire any necessary water permit or change authorization (see WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 171).

A person proposing to construct a dam or reservoir must submit an application to the DNRC for a determination of whether the dam or reservoir is classified as high-hazard.[1] A dam owner must also obtain a dam safety construction permit from the DNRC prior to constructing, enlarging, removing, extensively repairing or altering a high-hazard dam. Before operating a high-hazard dam, a dam safety operation permit must be obtained from the department. There are several categories of dams that are exempt from these requirements, including federal dams and reservoirs and dams regulated by the Federal Energy Regulatory Commission. At its discretion, or upon complaint, the DNRC may inspect any dam on state waters.

Statute: 85-15-105 *et seq.*, MCA (Montana Dam Safety Act)

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

[1] A high-hazard dam is a dam or reservoir with an impounding capacity of 50 acre-feet or more at the maximum normal operating pool, the failure of which would be likely to cause loss of life.

2. **Application Requirements**

A. For hazard classification, the dam owner must apply for a determination from the DNRC. The owner must submit an application to the department with information describing the dam or reservoir, including its capacity, purpose and location.

B. For a construction permit, the dam owner must submit an application form, an engineering design report and three sets of construction plans and specifications.

C. For an operation permit, the dam owner must submit an application that includes an operation plan. An inspection report is also required except for in the case of a new dam for which a construction permit has been issued.

Statute: 85-15-209 through 212, MCA

Rule: ARM 36.14.201-204, 36.14.301 *et seq.* and 36.14.401-403

3. **Permitting Procedures**

A. The DNRC will notify the applicant for a dam hazard classification of its receipt of the application within 10 days and will advise the applicant if it requires additional information. The DNRC will then schedule an inspection with the dam owner to gather information to make a hazard determination. The department will base its decision on the consequences of dam failure, not its condition, probability or risk. The DNRC has 60 days after the receipt of a completed application to make its determination.

B. Within 30 days after receipt of an application for a construction permit, the DNRC will notify the applicant of any errors or omissions and request any additional information necessary to evaluate the application. The DNRC has 60 days after receiving the application to issue the permit, deny the permit, or issue the permit with conditions or modifications.

C. Within 30 days after receipt of an application for an operating permit, the DNRC will notify the applicant of any errors or omissions and request any additional information necessary to evaluate the application. After receipt of all required information, the DNRC has 90 days to issue or deny the permit. The permit is valid for up to five years.

Rule: ARM 36.14.205-208, 36.14.301 *et seq.* and 36.14.401 *et seq.*

4. **Fees**

There is a $125 inspection fee for a hazard classification. There are no application fees for either the construction or operation permit.

Rule: ARM 36.14.204

PUBLIC WATER SUPPLY

1. **Types of Activities Regulated**

A water system that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year is regulated as a public water supply by the Montana Department of Environmental Quality (DEQ). Plans and specifications for public water supply wells must be approved, as well as plans for construction, alteration or extensions of any water system or treatment facilities. Operators in charge of community public water supplies and nontransient noncommunity public water supplies must be certified by the DEQ.

Water supply systems for food and lodging establishments that do not serve 15 or more service connections or 25 or more people for any 60 or more days in a calendar year are regulated by the Montana Department of Public Health and Human Services.

Statute: 37-42-101, *et seq.*, MCA (water treatment plant operators)
50-50-101, *et seq.,* MCA (private systems for food and lodging establishments)
75-6-101 *et seq.*, MCA (public water supply systems)

Rule: ARM 17.38.101 and 102

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Public Water Supply and Subdivisions Bureau

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Food and Consumer Safety Section

2. **Application Requirements**

1) Prior to operating, constructing, altering or extending a public water supply, the applicant must submit an engineering report along with the necessary

plans and specifications to the DEQ or a delegated division of local government for review and written approval.

2) The engineering report, plans and specifications for a community public water supply must be prepared and designed by a professional engineer according to specific engineering criteria. An engineer may be required to prepare plans and specifications for a noncommunity public water supply when the complexity of the proposed system warrants that level of involvement by an engineer.

3) The applicant must identify the legal entity responsible for the ownership, operation, maintenance and perpetuation of the public water supply system. If a change of ownership occurs, the DEQ must receive written notice within 30 days.

4) The department has 60 days to approve, approve with conditions, deny the application, or to request more information. The DEQ or a delegated division of local government will issue a written approval for a public water supply system if it determines that the design report, plans and specifications are complete and the applicant has complied with department rules.

5) If construction, alteration or extension of the community public water supply system has not been completed within three years after approval, the applicant must resubmit all of the information required in 1-3 above.

6) The proposed public water supply system must comply with the Montana Water Quality Act (75-5-101 *et seq.*, MCA). See WATER QUALITY PERMITTING, p. 177.

7) Within 90 days after the construction, alteration or extension of the public water supply system, the project engineer must certify to the DEQ that the required work was completed according to the approved plans and specifications.

Rule: ARM 17.38.101

3. **Fees**

An annual active service connection fee is required and must be postmarked or delivered to the department by March 1st. The annual fee for a community public water supply system is $2 per service connection, with a $100 fee minimum. The annual fee for a nontransient, noncommunity public water supply system is $100. The annual fee for any other noncommunity public water supply system is $50.

Water treatment operators must pay a $70 application fee that entitles the applicant to take one or more exams for 12 months from the date of application. Each exam is $70. The annual renewal fee is $30 and must be postmarked or delivered to the department by June 30th.

Statute: 37-42-304 and 75-6-108, MCA

Rule: ARM 17.38.248 and 17.40.212

4. Additional Information

Montana Source Water Protection Program (Wellhead Protection Program)

The DEQ has the authority to administer a wellhead protection program that allows for the certification of local wellhead protection areas and the review of wellhead protection area ordinances. A supplier of a public water supply system may voluntarily submit a petition to the DEQ to establish a wellhead protection program for the system. The governing body of a county in which a wellhead protection area or areas exist may adopt an ordinance to regulate, control and prohibit conditions that threaten the quality of water used within the wellhead protection area or areas.

Statute: 75-6-120, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Planning, Prevention and Assistance Division
Technical and Financial Assistance Bureau

SEPTIC TANKS, CESSPOOLS AND PRIVIES

1. Types of Activities Regulated

A person may not engage in the business of cleaning cesspools, septic tanks, portable toilets, privies, grease traps, car wash sumps, or similar treatment works, or disposal of septage and other wastes from these sources, unless licensed by the Montana Department of Environmental Quality (DEQ). Hazardous wastes are regulated separately (see HAZARDOUS WASTE DISPOSAL, p. 135).

Statute: 75-10-1211 through 1223, MCA

Rule: ARM 17.50.801 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Waste and Underground Tank Management Bureau

2. Application Requirements

Applications for licenses must be made to the DEQ on forms provided by the department. The application must contain the licensee's name and address; a list of counties in which business will be conducted; a list of disposal sites; and the estimated volume of septage and other wastes to be disposed of at each disposal site annually. The DEQ requires additional information that is described in department rules for each disposal site proposed for use by the applicant. Licenses expire on December 31st of each year and are nontransferable.

Statute: 75-10-1211 and 1212, MCA

Rule: ARM 17.50.803

3. Permitting Procedures

The DEQ will review an application for a new or renewed license to ensure that it is complete. If additional information is required, the DEQ will send the applicant written notification. After receiving a completed application, the DEQ will notify the relevant local health officer or designated representative. The department may not issue a license until 14 days after notifying the local health officer or designated representative in order to allow them a period for review and comment. A license is issued within 30 days after the DEQ's decision to approve the license.

4. Fees

The annual license fee is $125. A late fee of $125 is assessed by the DEQ for failure to renew a license before January 31st of the year following the license expiration.

Statute: 75-10-1201 through 1223, MCA

Rule: ARM 17.50.803

SEWER SYSTEMS

1. Types of Activities Regulated

Approval from the Montana Department of Environmental Quality (DEQ) is required to construct, alter or extend a public sewer system serving 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year. Operators in charge of public wastewater treatment systems must be licensed by the DEQ.

Statute: 75-6-101 *et seq.*, MCA

Rule: ARM 17.38.101 and 102

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Public Water Supply and Subdivisions Bureau

BOARD OF WATER AND WASTEWATER OPERATORS

2. Application Requirements

1) Prior to operating, constructing, altering or extending a public sewer system, the applicant must submit an engineering report along with the necessary plans and specifications to the DEQ or a delegated division of local government for review and written approval.

2) The engineering report, plans and specifications for a public sewer system must be prepared and designed by a professional engineer licensed in the state of Montana according to specific engineering criteria developed by the department.

3) The applicant must identify the legal entity responsible for the ownership, operation, maintenance and perpetuation of the public sewer system. If a change of ownership occurs, the DEQ must receive written notice within 30 days.

4) The department has 60 days to approve, approve with conditions, deny the application, or to request more information. The DEQ or a delegated division of local government will issue a written approval for a public sewer system if it determines that the design report, plans and specifications are complete and the applicant has complied with department rules.

5) If construction, alteration or extension of the public sewer system has not been completed within three years after approval, the applicant must resubmit all of the information required in 1-3 above.

6) The proposed public sewer system must comply with the Montana Water Quality Act (75-5-101 *et seq.*). See WATER QUALITY PERMITTING, p. 177.

7) Within 90 days after the construction, alteration or extension of the public sewer system, the project engineer must certify to the DEQ that the required work was completed according to the approved plans and specifications. The project engineer must also provide *as built* drawings at this time.

Rule: ARM 17.38.101

3. **Fees**

Wastewater treatment operators must pay a $70 application fee that entitles the applicant to take one or more exams for 12 months from the date of application. Each exam is $70. The annual renewal fee is $30 and must be postmarked or delivered to the department by June 30th.

Rule: ARM 17.40.212

WATER APPROPRIATIONS - GROUND WATER

See WATER APPROPRIATIONS - SURFACE DIVERSIONS on the following pages for a more complete description of the water rights permitting process.

1. **Types of Activities Regulated**

A **ground water appropriation** that will exceed 35 gallons of water a minute or 10 acre-feet of water a year, or that is inside an established controlled ground water area or applicable compact area,[1] must be permitted by the Montana Department of Natural Resources and Conservation (DNRC) before the water is put to beneficial use. A combined appropriation of two or more wells or developed springs from the same source that meet these conditions also requires a permit. See WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 171 for more information on beneficial uses and exceptions.

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[1] A compact area is one in which the Montana Reserved Water Rights Compact Commission has completed a negotiated settlement with a tribal group or federal agency.

A **change in place of use, point of diversion, place of storage or purpose of use** of an appropriated water right also requires approval by the DNRC. Certain *replacement* wells are exempt from this requirement as long as they meet several conditions established by the DNRC (see Exceptions, p. 176).

The DNRC may not grant a permit to an applicant to appropriate ground water in excess of 3,000 acre-feet per year without legislative affirmation of the department's decision, except for municipal use, public water supplies or for irrigation of cropland owned and operated by the applicant.

Statute: 85-2-302, 306, 311, 317, 402 and 508, MCA

Rule: ARM 36.12.102 and 103

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau Office in Helena; or local Water Resources Regional Offices (see APPENDIX 2)

2. **Application Requirements**

A. An application for a **ground water appropriation** exceeding 35 gallons a minute or 10 acre-feet per year, or one that is within an established controlled ground water area or applicable compact area, must be made on forms available from the DNRC Water Rights Bureau Office in Helena and the eight local Water Resources Regional Offices. The DNRC has 180 days to notify the applicant of any defects in an application. If the DNRC does not notify the applicant of any defects within 180 days, the application may be considered correct and complete. An incorrect or incomplete application does not lose its filing priority if it is corrected and refiled within 30 days or as the DNRC may allow, up to three months. An application not corrected within three months is by law terminated.

B. An application must also be submitted for **change authorizations**. Certain water rights changes are exempt from this requirement as long as they meet several conditions established by the DNRC (see Exceptions, p. 176).

C. If a person appropriating water does not have a possessory interest in the property from which the water will be withdrawn, that person must notify the landowner 30 days before any related construction or appropriation begins.

Statute: 85-2-302, 306, 317, 402, 508 and 516, MCA

Rule: ARM 36.12.102 and 103

3. Permitting Procedures

For permitting procedures for obtaining a water right permit or a change authorization, see WATER APPROPRIATIONS - SURFACE DIVERSIONS, below.

4. Additional Information

A. Controlled Ground Water Area

Controlled ground water areas may be established by the DNRC on its own motion or upon petition. Several controlled ground water areas have been established. In a **controlled ground water area**, anyone wishing to appropriate water must apply for and receive a permit. Some controlled ground water areas have additional restrictions. Contact the DNRC to determine the location of controlled ground water areas and to determine special requirements applicable to a particular controlled ground water area.

Statute: 85-2-506 through 508, MCA

B. Coal Bed Methane Wells

Ground water produced as a result of **coal bed methane development** has special management requirements. The produced water must be put to beneficial use, reinjected to an acceptable subsurface area, discharged to the surface or surface waters, or managed by other legal means. Developers of coal bed methane wells must offer mitigation agreements to area appropriators whose point of diversion is within one mile of the coal bed methane well or one-half mile of a well that is adversely affected by the coal bed methane well.

Statute: 82-11-175, MCA

WATER APPROPRIATIONS - SURFACE DIVERSIONS

1. Types of Activities Regulated

State waters may be appropriated for *beneficial uses*. These uses include, but are not limited to, agriculture, domestic, fish and wildlife, mining, industrial, municipal, power

generation and recreation. A **permit to appropriate water** for a beneficial use is required from the Montana Department of Natural Resources and Conservation (DNRC) before beginning a project that proposes the use of unappropriated water. Application forms are available from the DNRC Water Rights Bureau Office in Helena and the eight local Water Resources Regional Offices.

An applicant may apply for a **temporary permit to appropriate water** if the use is for a limited period of time, i.e., for road construction or oil and gas exploration. The applicant must meet the criteria listed in 3.(2) on the following page. Permits expire on the date noted in the application.

A **change in place of use, point of diversion, place of storage or purpose of use** of an appropriated water right also requires approval by the DNRC.

A **change of ownership** of a water right must be disclosed with a realty transfer certificate and recorded with the DNRC by filing a Water Right Ownership Update within 60 days of filing the deed.

A water user or the Montana Department of Fish, Wildlife and Parks may apply to **temporarily change or lease a water right for instream flow** to maintain or enhance instream flow to benefit the fishery resource.

The state, the federal government or their subdivisions may apply for **reservations of water** for existing or future beneficial uses, or to maintain a minimum flow, level or quality of water. The application must be filed with the DNRC which has the authority to grant, deny or modify the reservation.

See 6. Additional Information for exceptions to the permitting requirements.

Statute: 85-2-301, 302, 306, 313-317, 402, 408, 424, 436 and 439,MCA

Rule: ARM 36.12.101-106 and 36.16.103-106

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau Office in Helena; or local Water Resources Regional Offices (see APPENDIX 2)

2. Application Requirements

An application for a **beneficial water use permit** or an application to **change a water right** must be made on forms available from the DNRC. The department has 180 days to notify the applicant of any defects in an application. If the DNRC does not notify the

applicant of any defects within 180 days, the application may be considered correct and complete. An incorrect or incomplete application does not lose its filing priority if it is corrected and refiled within 30 days or as the DNRC may allow, up to three months. An application not corrected within three months is by law terminated.

To apply for a **water reservation**, the state or a political subdivision or the federal government must submit an application to the DNRC. Individuals may not make this application. Applications are processed and investigated by the department. The DNRC must make findings concerning the purpose and need for the water reservation, the amount of water necessary and whether the proposed use is in the public interest.

Statute: 85-2-301 *et seq.*, and 85-2-402, MCA

Rule: ARM 36.12.102, 103 and 36.16.101-118

3. **Permitting Procedures**

1) The application process for a **permit or change approval** may take 1 year or longer. The DNRC must prepare a notice on the application and publish it once in an area newspaper unless it finds from available information that the proposed appropriation will not adversely affect the rights of others.

2) Individuals may file written objections to the permit or change application within the time period stated on the public notice associated with the application. An objection must be correct and complete and include the name and address of the objector.

A. For a **permit** application, an objector must show that one or more of the criteria in 85-2-311, MCA are not met. These criteria are:

❶ There is water physically available at the proposed point of diversion in the amount that the applicant seeks to appropriate;

❷ Water can reasonably be considered legally available during the period in which the applicant seeks to appropriate, in the amount requested;

❸ The water rights of a prior appropriator under an existing water right, a certificate, a permit, or a state water reservation will not be adversely affected;

❹ The proposed means of diversion, construction and operation of the appropriation works are adequate;

❺ The proposed use of water is a beneficial use; and

❻ The applicant has possessory interest or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use.

B. For a **change** application, an objector must show that one or more of the criteria in 85-2-402, MCA are not met. These criteria are:

❶ The proposed change in appropriation right will not adversely affect the use of existing water rights.

❷ Except for lease applications, the proposed means of diversion, construction or operation of the diversion works are adequate.

❸ The proposed use is beneficial.

❹ Except for lease applications, the applicant has possessory interest or the written consent of the person with possessory interest in the property where water is to be put to beneficial use.

3) If the DNRC determines that objections to an application are valid, it will hold a public hearing unless an agreement is reached by the parties.

4) If a hearing is held on objections to an application, a proposed order will be prepared and sent to all parties of record in the case. A party who disagrees with the order may file an exception and request an oral argument hearing before a final order is issued. The final order may be appealed by the applicant or objector to the District Court within 30 days after receiving notice of the decision.

5) The DNRC will issue a decision on the permit within 120 days after publication of the notice if no objections have been received, or within 180 days if a hearing is held or objections have been received. The DNRC may extend these deadlines up to 60 days on agreement of the applicant, if an Environmental Impact Statement (see MONTANA ENVIRONMENTAL POLICY ACT, p. 114) is required or in other extraordinary cases. If no objection to the application is filed but the DNRC determines that the application should be approved in a modified form or denied, it will serve a statement of opinion to the applicant, along with notice that the applicant may file a request for a hearing within 30 days.

6) The DNRC may issue a permit for less than the amount of water requested, but in no case may it issue a permit for more water than is requested or that can be beneficially used. The DNRC must state the time limits for commencement of the appropriation work, completion of construction and actual application of the water to the proposed beneficial use.

7) PERMITS ARE PROVISIONAL UNTIL ALL CLAIMS OF EXISTING WATER RIGHTS IN A BASIN OR SUBBASIN HAVE BEEN ADJUDICATED IN THE STATE WATER COURT.[1]

8) Change authorizations are limited to the amount of the historic use recognized by the DNRC. If the historic use is reduced under adjudication proceedings, the authorization will be limited to the lesser amount.

Statute: 85-2-307 through 315 and 402, MCA
2-4-101 *et seq.*, MCA (Montana Administrative Procedures Act)

Rule: ARM 36.12.201-234 and 36.16.107

4. Fees

Fees vary according to the type of application and are due at the time the application is submitted. For a schedule of fees see ARM 36.12.103 or contact the DNRC.

Statute: 85-2-113, MCA

Rule: ARM 36.12.103

5. Criteria

The DNRC must base its decision for issuance of a permit on the criteria found in 85-2-311, MCA. Approval for an Application to Change a Water Right is based on the criteria in 85-2-402, MCA. All permits and change applications are subject to prior existing water rights and the final determination of those rights. Other conditions may be imposed to protect the rights of other water right appropriators on a case-by-case basis.

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[1] Permits for new water use have been required since July 1, 1973. Water rights claimed before that date are currently being quantified and recorded through a statewide water adjudication process. Contact the Montana Water Court or the DNRC for adjudication procedures.

Statute: 85-2-311, 312 and 402, MCA

Rule: ARM 36.12.104

6. **Additional Information**

A. Closed Basins

Several highly appropriated basins have been closed by the Legislature or the DNRC. Issuance of water use permits in these basins is limited, although issuance of permits for some uses is usually allowed. Contact the DNRC to determine the location of basin closures and to determine the limits that apply to a particular basin.

Statute: 85-2-319, 85-2-321 through 323, 85-2-329 through 337, 85-2-341 through 344, 85-2-350 through 351 and Title 85, Chapter 20.

Rule: ARM 36.12.1001 *et seq.*

B. Exceptions:

A person appropriating 35 gallons of water a minute or less, with an annual volume of 10 acre-feet or less, is not required to obtain a permit before beginning a project. However, within 60 days after the well is completed or the ground water spring is developed and the water put to beneficial use, the individual must file a **notice of completion of ground water development** with the DNRC so a certificate of water right can be issued. See also WATER WELLS, p. 184.

A permit to appropriate water is not required for construction of a pit or reservoir for use by livestock if: 1) the pit or reservoir has a maximum capacity of less than 15 acre-feet of water, 2) the impoundment is constructed on and will be accessible to a parcel of land that is owned or controlled by the applicant and that is at least 40 acres in size, and 3) the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream. However, an application for a **provisional permit for a completed stockwater pit or reservoir** must be submitted to the DNRC within 60 days after construction of the pit or reservoir. If the pit or reservoir adversely affects prior water rights, the DNRC may require modifications or revoke the permit.

A permit is not required for a water user to change an appropriation right for a replacement well if the existing well is abandoned and the volume and rate of water used by the replacement well is equal to or less than the existing well and does not exceed 450 gallons a minute for a municipal well or 35 gallons a minute and 10 acre-feet a year for all other wells. In addition, the new well must draw from the same aquifer and a **notice of replacement well** must be filed with the DNRC.

An appropriator may change a water right without the prior approval of the DNRC to construct a redundant water supply well in a public water supply system if the new water supply well withdraws water from the same source as the original well and is required by a state or federal agency. Only one well may be used at one time. Within 60 days of completion of a redundant water supply well, the appropriator must file a **notice of construction of the well** with the DNRC.

Approval from the DNRC is not required for leasing all or part of an appropriation right for **road construction or dust abatement** as long as the DNRC's requirements for the lease are met. The public must be given notice in the manner described in statute at least 30 days before the use of the water, and the lease agreement must be submitted to the DNRC at least two days before the use of the water. In addition to other conditions, the lease term may not exceed 90 days or 60,000 gallons of water per day.

Statute: 85-2-306, 402(15-16) and 410, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau

WATER QUALITY PERMITTING

The Department of Environmental Quality, under the authority of the Montana Water Quality Act (75-5-101 *et seq.*, MCA), regulates the discharge of pollutants into state waters through the adoption of water quality standards and the permit application process. Water quality standards specify what changes in water quality are allowed during the use of state waters and establish a basis for wastewater discharge permitting.

DISCHARGE PERMITS

1. Types of Activities Regulated

A Montana Pollutant Discharge Elimination System (MPDES) permit or a Montana Ground Water Pollution Control System (MGWPCS) permit is required from the Montana Department of Environmental Quality (DEQ) to construct, modify or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial or other wastes into state surface or ground water. A permit is not required for the discharge of certain wastes under specific circumstances (see ARM 17.30.1310 and 75-5-401(1)(b) and 75-5-401(5), MCA).

Statute: 75-5-101 *et seq.*, MCA (Montana Water Quality Act)

Rule: ARM 17.30.1301 *et seq.* (MPDES permit)
ARM 17.30.1001 *et seq.* (MGWPCS permit)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. Application Requirements

MPDES Permits - General: The DEQ may issue a general MPDES permit to cover all facilities that engage in a general type of activity in a discrete geographical region or statewide. These categories include, among others, storm water point sources,[1] suction dredge mining operations and construction dewatering operations. Applications must be submitted 30 days before the initiation of a proposed discharge.

MPDES Permits - Individual: Individual MPDES permits are required for facility-specific industrial, commercial or municipal discharges. An application must be filed at least 180 days prior to the operation of a point source. Application information must include plans and specifications, site plans, descriptions of adjacent state waters, soil conditions, ground water characteristics, process and waste flow diagrams and the volume and nature of projected discharges. Storm water discharges may be incorporated into this application, permitted under a separate individual MPDES permit or permitted under a general MPDES permit.

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[1] A point source is an identifiable point where pollutants are discharged, including pipes, ditches, channels, sewers and tunnels.

MGWPCS Permits: An application for a Montana Ground Water Pollution Control System (MGWPCS) permit must be filed at least 180 days prior to the operation of a point source. Application information must include a site plan; the location of treatment works and disposal systems; the location of adjacent surface waters; a list of surface owners and lessees, water supply wells and springs and a description of ground water quality and uses within one mile of the source; and other information that the department considers necessary to process the application.

Statute: 75-5-401 *et seq.*, MCA

Rule: ARM 17.30.1301, 1341 and 1023

3. **Permitting Procedures**

MPDES General Permits

1) Within 30 days of receiving a completed application, the DEQ will issue an authorization to operate under a general MPDES permit, or notify the applicant that the source does not qualify, citing one or more of the reasons listed in ARM 17.30.1341(4)(a-e). The public must be given notice and a 30-day comment period allowed if the source can not qualify to operate under a general MPDES permit.

2) If an authorization to operate under a general MPDES permit is denied, the DEQ will process the application as an individual MPDES permit, unless the application is withdrawn.

3) All MPDES permits are issued for a fixed term, not to exceed five years.

MPDES Individual and MGWPCS Permits

1) On receipt of the permit application, the DEQ must make a tentative determination with respect to issuance or denial of an MPDES or MGWPCS permit. The DEQ is then required to issue a public notice to inform interested persons of the proposed discharge and of the tentative determination. At least 30 days are provided for written comments from the public regarding the application. Public hearings may be held on the DEQ's own initiative or at the request of another agency or interested person.

2) The department has 60 days to review new permit applications for completeness and 30 days for completeness review of deficiency responses. During the processing of applications, the DEQ also determines discharge

limits and the length of mixing zones[1] to ensure water quality standards are met. Hearings must be held in the geographical area of the proposed discharge.

3) If the DEQ denies the discharge permit, the applicant may appeal the decision to the Board of Environmental Review (BER). The hearing must be held within 30 days of the receipt of the written request.

4) All MPDES permits are issued for a fixed term, not to exceed five years. All MGWPCS permits are issued for a fixed term, not to exceed 10 years.

Statute: 75-5-403, MCA

Rule: ARM 17.30.1301 *et seq.*, and 17.30.1024 *et seq.*

4. Fees

The DEQ assesses fees to cover a portion of the costs of implementing the water quality program. For a schedule of fees see ARM 17.30.201.

Statute: 75-5-516, MCA

Rule: ARM 17.30.201

5. Additional Information

Short-term Exemptions: The DEQ may authorize short-term turbidity standards for construction projects that affect water bodies (318 standards). The DEQ may also authorize short-term exemptions from the water quality standards (308 exemptions) for the purposes of emergency remediation that has been approved, authorized or required by the DEQ and application of an EPA-registered pesticide when it is used to control nuisance aquatic organisms or to eliminate undesirable and nonnative aquatic species. The department must issue the authorization before the applicant may begin the activity.

Leaching pads, tailing ponds or water, waste or product holding facilities must be designed and constructed, operated and maintained to prevent discharge, seepage, drainage, infiltration or flow which may result in the pollution of state waters. Plans and specifications for tailings ponds, leaching pads and holding facilities used in ore processing must be

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[1] Mixing zones are established areas where water quality standards may be exceeded while a discharge is mixed with receiving waters.

submitted to the DEQ for review and approval at least 180 days prior to the beginning of operations.

Statute: 75-5-308 and 75-5-318, MCA

Rule: ARM 17.30.637

6. **Criteria**

All discharges of pollutants into state waters authorized by a discharge permit must be consistent with the conditions of the permit. The discharge of pollutants into state waters in excess of the permit's restrictions constitutes a violation of the permit. State waters must be free of discharges that settle to form sludge deposits; create floating debris; produce odors; create toxic concentrations harmful to human, animal, plant and aquatic life; or create conditions capable of producing undesirable aquatic life. All discharges must meet water quality standards.

Rule: ARM 17.30.637, 1002-1003, 1030 and 1342

NONDEGRADATION REVIEW

The state's nondegradation policy outlines three levels of water protection, stipulating what level of degradation, if any, is allowed in each level. For waters classified as *outstanding resource waters*, (see p. 183) the DEQ may not grant an authorization to degrade. The state may authorize degradation of *high quality waters* up to but not exceeding water quality standards. For *other waters* not classified as outstanding resource waters or high quality waters, there is no nondegradation review requirement, but water quality standards and discharge permit conditions still apply.

1. **Types of Activities Regulated**

A person proposing an activity that may degrade *high quality waters* must 1) make a self-determination that the activity is nonsignificant using the standards in ARM 17.30.715 and 17.30.716, 2) receive a determination of nonsignificance from the Montana Department of Environmental Quality (DEQ) or, 3) if the activity is not within the definition of nonsignificant, petition the department for an authorization to degrade. For all activities that are licensed, permitted, approved or otherwise authorized by the DEQ, the department will make the determination whether the activity may cause degradation.

Statute: 75-5-303 and 317, MCA

Rule: ARM 17.30.701-708 and 715-716

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. Application Requirements

If a proposed activity will cause significant degradation of high quality waters and the applicant wishes to continue with the proposed activity, the DEQ will require the applicant to submit information necessary for the department to determine: 1) the degradation is necessary because there are no feasible modifications to the proposed project that would result in no degradation, 2) the proposed project will result in important economic or social development and the benefit of the development exceeds the costs to society of degrading high quality waters, 3) existing and anticipated use of state waters will be fully protected and 4) the least degrading water quality protection practices determined by the department to be economically, environmentally and technologically feasible will be fully implemented by the applicant prior to, during and after the proposed activity.

Statute: 75-5-303, MCA

Rule: ARM 17.30.706 and 707

3. Permitting Procedures

1) The DEQ must review an Application for Determination of Significance and make its decision on the application within 60 days. If the department determines that the activity will cause degradation, and the applicant wishes to proceed with the activity as planned, then the applicant must complete an application to degrade state waters.

2) The department will issue a preliminary decision either authorizing or denying the degradation within 180 days of the receipt of a completed application. This time period may be extended by agreement of the applicant or whenever an Environmental Impact Statement is required to comply with the Montana Environmental Policy Act (see p. 114).

3) The DEQ will issue its preliminary decision and provide public notice and a 30-day comment period. The department will hold a hearing if it determines there is a significant degree of public interest.

4) Within 60 days after the close of the public comment period, the DEQ will issue a final decision accompanied by a statement of basis for the decision and, if applicable, a statement of conditions. An interested person[1] wishing to challenge the final decision may request a hearing before the Board of Environmental Review within 30 days of the department's decision.

Statute: 75-5-303, MCA

Rule: ARM 17.30.706 and 707

4. Additional Information

Outstanding Resource Waters

State surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995, or other state waters classified as outstanding by the Board of Environmental Review (BER) and approved by the Legislature, may be designated as *outstanding resource waters*.

The DEQ may not grant an authorization to degrade waters in this classification or allow a new or increased point source discharge that would result in a permanent change in water quality.

A person may petition the BER to classify waters as outstanding resource waters. In determining whether a water should be thus classified, the Board will consider 1) whether the waters have been designated as Wild and Scenic, 2) the presence of threatened or endangered species, 3) the presence of an outstanding recreational fishery, 4) whether the waters provide the only source of suitable water for a municipality or industry, 5) whether the waters provide the only source of suitable water for a domestic water supply, and 6) other factors that indicate outstanding environmental or economic factors.

The BER may reject or approve the petition. If the Board rejects the petition, it will specify in writing the reasons for the rejection and state the petition's deficiencies. If the Board accepts the petition, it will require the completion of an Environmental Impact Statement (EIS) (see MONTANA ENVIRONMENTAL POLICY ACT, p. 114). The petitioner is responsible for all costs associated with the EIS. The classification is not effective until approved by the Legislature.

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[1] Interested person is defined in statute as the applicant, or a person who has a real property, economic or watered right that is or may be directly and adversely affected by the department's decision, (75-5-103(13), MCA).

The Board may deny an accepted outstanding resource water petition if the criteria for establishing outstanding resource waters have not been met or if, based on the information available to the Board from the EIS or other sources, approving the outstanding resource waters classification petition would cause significant adverse environmental, social or economic impacts.

Statute: 75-5-315 through 317, MCA

WATER POLLUTION: FEDERAL - INDIAN RESERVATIONS

1. Types of Activities Regulated

Under the federal Clean Water Act, a person who discharges pollutants from a point source into waters of the United States must obtain a National Pollutant Discharge Elimination System (NPDES) permit. The U.S. Environmental Protection Agency (EPA) issues NPDES permits for discharges within the boundaries of Montana's seven Indian reservations, including discharges on fee lands.

The Clean Water Act also allows a tribal government to apply for *treatment-as-a-state status* and, upon approval by the EPA, to issue NPDES permits for dischargers on a reservation. No tribes in Montana have treatment-as-a-state status for the issuance of NPDES permits. However the Fort Peck Tribes and and the Confederated Salish and Kootenai Tribes do have approved water quality standards that govern permit limits on the Fort Peck and Flathead Reservations.

Statute: 33 USC 1251 *et seq.*, (federal Water Pollution Control Act)

Contact: U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

CONFEDERATED SALISH AND KOOTENAI TRIBES (see APPENDIX 5 for contact information)

FORT PECK TRIBES (see APPENDIX 5 for contact information)

WATER WELLS

1. Types of Activities Regulated

All wells must be drilled by a water well contractor, water well driller, or monitoring well constructor licensed by the Board of Water Well Contractors (BWWC) or by a person who

has obtained a permit from the BWWC to drill a well on their own land for agricultural or residential use.

Within 60 days after completion of the well, water well contractors and drillers must file a well log report form with the Montana Bureau of Mines and Geology (MBMG). Forms may be mailed to the Ground Water Information Center at the MBMG or filed electronically at http://mbmggwic.mtech.edu.

Wells drilled by individuals for private use must conform to the minimum construction standards set by the BWWC. See also WATER APPROPRIATIONS - GROUND WATER, p. 169.

Statute: 37-43-101 *et seq.*, MCA
85-2-516, MCA

Rule: ARM 36.21.634 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division office in Helena; or local Water Resources Regional Offices (see APPENDIX 2)

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
BOARD OF WATER WELL CONTRACTORS

MONTANA TECH OF THE UNIVERSITY OF MONTANA
Bureau of Mines and Geology

2. Application Requirements

A person planning the drilling, making, construction, alteration or rehabilitation of one or more water or monitoring wells for underground water must file a license application with the BWWC. The application must include verification of one or more years in the water well or monitoring field or equivalent education, experience or both.

Individuals applying for a permit to drill a well on their own property must show interest in the land on which the well will be constructed and the method of construction to be used. Permits are often issued the same day if the application is complete.

3. Permitting Procedures

Water well driller and monitoring well constructor license applications are reviewed for completeness by the DNRC. Once the application is reviewed, then an exam may be taken

at a DNRC office in Helena or at the Water Resources Division regional offices. A bond or its equivalent must be posted by water well contractors and monitoring well constructors. Licenses are issued when the exam is passed and any required bonds are submitted.

Rule: ARM 36.21.402 *et seq.*

4. **Fees**

A. There is a fee of $35 for filing a Notice of Completion.

B. Driller's license application and license renewal fees are:

Category	**Application Fee**	**Renewal Fee**	**Dates Valid**
Water Well Contractor	$300	$250	July 1 - June 30
Water Well Driller	$250	$150	July 1 - June 30
Monitoring Well Constructor	$300	$250	July 1 - June 30

C. There is no fee for filing the well log report form. There is no licensing fee for drilling a well on one's own property.

Rule: ARM 36.12.103 and 36.21.415

WEATHER MODIFICATION

1. Types of Activities Regulated

A license and permit from the Montana Department of Natural Resources and Conservation (DNRC) are required to engage in weather modification and control activities. License and permit forms are available from the department.

Statute: 85-3-101 through 401, MCA

Rule: ARM 36.20.101-401

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Management Bureau

2. Application Requirements

A. License

An applicant for a weather modification license must demonstrate competence in the field of meteorology and complete an application form available from the Water Resources Division of the DNRC. A license expires at the end of the calendar year. Qualified licensees may apply for a renewal.

B. Permit

A person holding a valid weather modification license must receive a permit before engaging in actual weather modification and control activities. Separate permits are required for each operation. A permit applicant must also file a notice of intention. The notice must include the applicant's name and address; the nature, purpose and objective of the intended operation and the person or organization on whose behalf the operation will be conducted; the approximate time during which the operation will be conducted; the area affected; and the materials and methods that will be used. The DNRC must publish the notice at least once a week for two consecutive weeks in a newspaper having general circulation in the affected county(ies).

Statute: 85-3-201 through 210, MCA

3. **Permitting Procedures**

A. License

Information provided in the license applications is corroborated by the DNRC. The DNRC then approves or denies the application based upon the statutory criteria.

B. Permit

Permit applications must be submitted at least 180 days prior to the date the weather modification operation is scheduled to begin. If the operation is new, the applicant is advised to consult with the DNRC prior to submitting a permit application. Once received, the application is evaluated, and an Environmental Impact Statement (EIS) (see MONTANA ENVIRONMENTAL POLICY ACT, p. 114) must be prepared by the DNRC. A hearing may be required at the applicant's expense. The DNRC may approve, approve with conditions, or reject an application based on the criteria described below.

Statute: 85-3-206, MCA

Rule: ARM: 36.20.301

4. **Fees**

A. The fee for a license or license renewal to conduct weather modification operations is $100.

B. The fee for a permit to conduct weather modification operations is one percent of the estimated cost of the operation.

C. The applicant must reimburse the DNRC for all costs associated with any public meetings or hearings, preparing the report and preparing the EIS.

Statute: 85-3-202(1), 205, 206(2d) and 212, MCA

5. **Criteria**

A. License

Competence in the field of weather modification and meteorology must be demonstrated by the applicant's experience and education or certification by a nationally recognized weather modification professional society, agency, or

organization. A minimum of one year of experience in management and control of a weather modification operation is required.

B. Permit

The following approval criteria must be met.

1) the person in charge is licensed to conduct weather modification activities in Montana;
2) the project has been properly noticed;
3) the project has been insured in a manner that would protect victims of any unintended weather modification results;
4) the fees have been or will be paid, in accordance with the statute; and
5) the project is determined by the DNRC to be for the general welfare and public good.

Statute: 85-3-206, MCA

6. **Additional Information**

On petition of county residents, a county may establish a weather modification authority to engage in weather modification activities.

Statute: 85-3-401 *et seq.*, MCA

APPENDIX 1: MONTANA STATE AGENCIES

DEPARTMENT OF AGRICULTURE
Director, W. Ralph Peck
Agriculture and Livestock Building
303 North Roberts
P.O. Box 200201
Helena, MT 59620
(406) 444-3144
http://agr.state.mt.us

Agricultural Sciences Division
Administrator, Greg Ames
(406) 444-2944

Aerial pesticide applications
Anhydrous ammonia dealers
Commercial feed
Fertilizer registration
Nurseries
Pesticide applications
Pesticide registration
Quarantines
Seed dealers, cleaners and labelers

DEPARTMENT OF COMMERCE
Director, Mark Simonich
301 South Park
P.O. Box 200501
Helena, MT 59626
http://commerce.state.mt.us

Community Development Division
Administrator, Newell Anderson
301 South Park
P.O. Box 200523
(406) 841-2772

Hard-Rock Mining Impact Board
Program Assistant, Sami Sandoval
(406) 841-2782

Hard-rock mining

DEPARTMENT OF ENVIRONMENTAL QUALITY

Director, Jan Sensibaugh
1520 East Sixth Ave.
P.O. Box 200901
Helena, MT 59620-0901
(406) 444-2544
http://deq.state.mt.us

Director's Office
(406) 444-2929

Community Right to Know

Permitting and Compliance Division
Administrator, Steve Welch
1520 East Sixth Ave.
P.O. Box 200901
(406) 444-4964 Fax: (406) 444-1374

Air Resources Management Bureau
Chief, Don Vidrine
Ph: (406) 444-3490 Fax: (406) 444-1499

Air quality permits
Burning permits

Environmental Management Bureau
Chief, Warren McCullough
(406) 444-4953 Fax (406) 444-1499

Hard-rock mining
Major Facility Siting Act
Milling/reprocessing
Pipelines
Small miner's exemption
Wind energy

Industrial and Energy Minerals Bureau
Chief, Neil Harrington
(406) 444-4970 Fax: (406) 444-1923

Coal and uranium mining
Gravel pits
Opencut mining

Public Water Supply and Subdivisions Bureau
Chief, Jon Dilliard
Ph: (406) 444-4400 Fax: (406) 444-1374

Public sewer systems
Public water supplies
Subdivisions, sanitary restrictions

Waste and Underground Tank Management Bureau
Chief, Ed Thamke
Ph: (406) 444-5300 Fax: (406) 444-1374

Asbestos control
Landfills
Hazardous and medical waste incinerators
Hazardous waste
Motor vehicle wrecking facilities
Roadside junkyards
Solid waste
Septic tank, cesspool and privy cleaning
Underground storage tanks

Water Protection Bureau
Chief, Bonnie Lovelace
(406) 444-3080 Fax: (406) 444-1374

308 and 318 authorizations
401 permitting
Animal confinement facilities
Discharge permits
Feedlots
Nondegradation review
Oil and gas wells
Outstanding resource waters
Storm water permits
Water pollution discharge permits

Planning, Prevention and Assistance Division
Administrator, Art Compton
1520 East Sixth Ave.
(406) 444-6697 Fax: 444-6836

Air, Energy and Pollution Prevention Bureau
1100 North last Chance Gulch
Ph: (406) 841-5200 Fax: (406) 841-5222

Air quality monitoring
Business and Community Assistance
Energy planning and technical assistance
Public buildings and renewable energy
Radon control

Technical and Financial Assistance Bureau
1520 East Sixth Ave.
(406) 444-6697

Drinking water revolving fund
Source water/wellhead protection
Water pollution control revolving fund
Wellhead protection

Water Quality Planning Bureau
1520 East Sixth Ave.
Ph: (406) 444-6697

Water data management
Watershed management
Water quality monitoring
Water quality standards

Remediation Division
Administrator, Sandi Olsen
1100 North Last Chance Gulch
P.O. Box 200902
(406) 841-5000 Fax: (406) 841-5050

Hazardous Waste Site Cleanup Bureau
Chief, Mike Trombetta
(406) 841-5045

Contaminated site cleanup
Leaking underground storage tanks
Petroleum releases
Site response

Mine Waste Cleanup Bureau
Chief, Vic Anderson
(406) 841-5025

Abandoned mines
Superfund

ENVIRONMENTAL QUALITY COUNCIL
Legislative Branch, Legislative Environmental Policy Office
Legislative Environmental Analyst, Todd Everts
State Capitol
P.O. Box 201704
Helena, MT 59620
Ph: (406) 444-3742 Fax: (406) 444-3971 or 444-3036
http://www.leg.state.mt.us/css/lepo/2003_2004/default.asp

Environmental Impact Statements
Environmental Assessments

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Director, Jeff Hagener
1420 East Sixth Ave.
P.O. Box 200701
Helena, MT 59620
(406) 444-3186
http://www.fwp.state.mt.us

Registration of experimental use pesticides
Recreational use of rivers
Smith River float permits

Administration and Finance Division
Administrator, Dan Ellison
(406) 444-3109

Fish and game licenses
Special permits and licenses

Enforcement Division
Administrator, Jim Kropp
(406) 444-2452

Alternative livestock ranches
Boating
Field trial permit
Fishing, hunting, trapping regulations
Fur dealers
Game, game bird or fur farms
Ice fishing shelters
Off-highway vehicles
Roadside menageries
Shooting preserves
Shooting preserve bird tags
Snare trapping
Snowmobiles
Taxidermy

Field Services Division
Administrator, Glenn Erickson
1400 Eighth Ave.
Ph: (406) 444-2602 Fax: (406) 841-4004

Conservation easements
Habitat preservation

Fisheries Division
Administrator, Chris Hunter
1420 East Sixth Ave.
(406) 444-2449

Commercial fishing or seining
Fishing derbies
Importation of fish or fish eggs
Nongame and endangered fish species
River recreation
Salmon eggs

Seining
Streambed protection
Taking fish for scientific purposes

Parks Division
Administrator, Doug Monger
1420 East Sixth Ave.
(406) 444-3750

State parks

Wildlife Division
Administrator, Don Childress
1420 East Sixth Ave.
(406) 444-2612

Baits on FWP lands
Captive breeding of raptors
Game preserves
Migratory birds
Nongame and endangered wildlife species
Taking game for scientific purposes
Wild animal menageries
Wild bird permits

MONTANA HISTORICAL SOCIETY

Director, Arnold Olsen
225 North Roberts
P.O. Box 201201
Helena, MT 59620
Ph: (406) 444-4706
http://his.state.mt.us

State Historic Preservation Office
Preservation Officer, Mark Baumler
1410 Eighth Ave.
P.O. Box 201202
Ph: (406) 444-7717 Fax: (406) 444-6575

Antiquities permits

Burial site preservation
Heritage site preservation

DEPARTMENT OF JUSTICE
Attorney General, Mike McGrath
215 North Sanders, 3rd Floor
P.O. Box 201401
Helena, MT 59620
(406) 444-2026
http://doj.state.mt.us

Division of Criminal Investigation
Administrator, Mike Batista
303 North Roberts, Scott Hart Building
P.O. Box 201417
(406) 444-3874

Fire Prevention and Investigation Section
(406) 444-2050

Aboveground storage tanks

Motor Vehicle Division
Administrator, Dean Roberts
303 North Roberts, Scott Hart Building
P.O. Box 201430
(406) 444-4536

Title and Registration Bureau
Chief, Karin Slaughtner
1032 Buckskin Dr.
Deer Lodge, MT 59722
Ph: (406) 846-6000 Fax: (406) 846-6039

Boat registration
Motor vehicle wrecking facility quarterly reports
Off-highway vehicle registration
Snowmobile registration

DEPARTMENT OF LABOR AND INDUSTRY
Commissioner, Wendy Keating
1327 Lockey, Walt Sullivan Building
P.O. Box 1728
Helena, MT 59624
(406) 444-9091
http://dli.state.mt.us

Business Standards Division
Administrator, Jim Brown
301 South Park
P.O. Box 200517
Helena, MT 59620
(406) 841-2040

Building Codes Bureau
Chief, Bill Jellison
301 South Park
(406) 841-2042

Building codes

Business and Occupational Licensing Bureau
Chief, Brenda St. Clair
(406) 841-2302

Board of Outfitters
Executive Officer, Wayne Johnston
301 South Park, 4th Floor
P.O. Box 200513
(406) 841-2370
FAX: (406) 841-2305

Outfitters and guides

Employment Relations Division
1805 Prospect
P.O. Box 8011

Safety Bureau
Chief, John Maloney
USF&G Building

1625 11th Ave.
P.O. Box 1728
(406) 444-1605

Coal mining safety regulations
Hard-rock mining safety regulations
Indoor emissions
Occupational noise
Opencut mining safety regulations

DEPARTMENT OF LIVESTOCK

Executive Officer, Marc Bridges
Scott Hart Building, 3rd Floor
301 Roberts
P.O. 202001
Helena, MT 59620
(406) 444-7323
http://www.liv.state.mt.us

Meat and Poultry Inspection Bureau
Chief, Carol Olmstead
Scott Hart Building, 3rd Floor
(406) 444-5202

Slaughterhouses and meatpacking plants

Milk and Egg Inspection Bureau
Chief, Todd Gahagan, R.S.
Scott Hart Building, 3rd Floor
(406) 444-9761

Dairies

Animal Health Division
Administrator/State Veterinarian, Dr. Thomas Linfield
Scott Hart Building, 3rd Floor
(406) 444-2043

Alternative livestock ranches (game farms)
Importation of animals

Brands Enforcement Division
Administrator, Jack Wiseman
Scott Hart Building, Second Floor
(406) 444-2045

Alternative livestock ranches (game farms)
Predator control

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Director, Bud Clinch
USF&G Building
1625 Eleventh Ave.
P.O. Box 201601
Helena, MT 59620
Ph: (406) 444-2074 Fax: (406) 444-2684
http://www.dnrc.state.mt.us

Conservation and Resource Development Division
Administrator, Ray Beck
(406) 444-6671

Conservation Districts Bureau
Chief, Steve Schmitz
(406) 444-6691

Conservation districts
Stream banks, stream beds

Forestry Division
Administrator, Robert Harrington
2705 Spurgin Road
Missoula, MT 59804
Ph: (406) 542-4300 Fax: (406) 542-4217

Fire and Aviation Management Bureau
Chief, Tim Murphy
(406) 542-4304

Burning permits

Service Forestry Bureau
Chief, Robert Ethridge
(406) 542-4303

Best Management Practices
Hazard reduction
Slash disposal
Streamside management zones

Oil and Gas Conservation Division
Administrative Officer, Terry Perrigo
Ph: (406) 444-6675
See also APPENDIX 2: State agency regional offices

Geophysical exploration
Oil and gas development

Trust Land Management Division
Administrator, Tom Schultz
(406) 444-2074

Agriculture and Grazing Management Bureau
Chief, Kevin Chappell
(406) 444-3847

Cropland leases on state land
Grazing leases on state land

Forest Management Bureau
Chief, Pete Van Sickle
2705 Spurgin Road
(406) 542-4300

Timber conservation license
Timber removal
Timber sales

Minerals Management Bureau
Chief, Monte Mason
USF&G Building
(406) 444-3843

Mineral leases on state land
Underground storage of natural gas

Special Use Management Bureau
Chief, Jeanne Holmgren
USF&G Building
(406) 444-3844

Cabin sites
Easements on state land
Exchanges of state land
Hydroelectric sites
Island Parks
Leases of state land
Land use licenses
Recreational use licenses
Sales of state land

Water Resources Division
Administrator, Jack Stults
1424 Ninth Ave.
(406) 444-6601

State Water Projects Bureau
Chief, Kevin Smith
(406) 444-2932

State water projects - canals, dams, hydropower

Water Management Bureau
Chief, Richard Moy
(406) 444-6633

Water planning
Weather modification

Water Operations Bureau
Chief, Laurence Siroky
(406) 444-6816

Dams safety program
Floodplain regulation
Lakeshores

Water measurement program
Water well construction standards

Water Rights Bureau
Chief, Curt Martin
(406) 444-6631

Water rights

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Director, Gail Gray
111 North Sanders
P.O. Box 4210
Helena, MT 59604
(406) 444-5622
http://www.dphhs.state.mt.us

Public Health and Safety Division
Administrator, Maggie Bullock
Cogswell Building, 1400 Broadway
(406) 444-4141

Communicable Disease Control and Prevention Bureau
Chief, Mr. Terry Krantz
(406) 444-4735

Communicable Disease and Epidemiology Section
Supervisor, Todd Damrow
(406) 444-3986

Possession of wild animals

Food and Consumer Safety Section
Supervisor, Howard Reid
Ph: (406) 444-2408

Trailer courts, camp grounds, work and youth camps

Quality Assurance Division
Administrator, Mary Dalton
2401 Colonial Dr.
(406) 444-5401

Licensure Bureau
Chief, Roy Kemp
(406) 444-2868

Radiation control
Radioactive waste disposal

PUBLIC SERVICE COMMISSION

Chair, Bob Rowe
1701 Prospect Ave., Vista Building
P.O. Box 202601
Helena, MT 59620
Ph: (406) 444-6199 Fax: (406) 444-7618
http://www.psc.state.mt.us

Utility Division
Administrator, Kate Whitney
(406) 444-6182

Electricity and gas suppliers
Motor carrier regulation
Pipelines
Utilities

SECRETARY OF STATE

Bob Brown
State Capitol, Room 225
P.O. Box 202801
Helena, MT 59620
Ph: (406) 444-2034 Fax: (406) 444-3976
http://sos.state.mt.us

Business Services Bureau
Customer Service Hotline
(406) 444-3665

Certificate of authority (oil and gas)
Surety bonds

DEPARTMENT OF TRANSPORTATION

Director, Marvin Dye
2701 Prospect Ave.
P.O. Box 201001
Helena, MT 59620-1001
Ph: (406) 444-6201 Fax: (406) 444-7643
http://www.mdt.state.mt.us

Aeronautics Division
Administrator, Debbie Alke
2630 Airport Road
(406) 444-2506

Aerial pesticide application

Engineering Division
Administrator, Joel Marshik
2701 Prospect Ave.
(406) 444-6206

Right-of-Way Bureau
Chief, John Horton
(406) 444-6063

Easements, encroachments
Roadside junkyards

Maintenance Division
Administrator, D. John Blacker
2701 Prospect Ave.
(406) 444-7220

Area Maintenance Bureaus
(see APPENDIX 2)

Approach permits
Highway advertising permits
Utility permits

Motor Carrier Services Division
Administrator, Drew Livesay
2701 Prospect Ave.
(406) 444-6130

Motor carrier regulation, interstate

APPENDIX 2: STATE AGENCY REGIONAL OFFICES

DEPARTMENT OF AGRICULTURE

Billings: 321 South 24th Street West
Billings, MT 59102
(406) 652-3615

Bozeman: 234 East Babcock, Suite I
Bozeman, MT 59715
(406) 587-9067

Glasgow: P.O. Box 1054
Glasgow, MT 59230
(406) 228-9510

Great Falls: 750 6th Street SW, Suite 207
Great Falls, MT 59404
(406) 761-0926

Hathaway: 4680 Old Hwy 10
Hathaway, MT 59333
(406) 347-5466

Kalispell: P.O. Box 7044
Kalispell, MT 59904
(406) 837-6040

Missoula: 2681 Palmer Road, Suite G
Missoula, MT 59808
(406) 329-1340

Saco: P.O. Box 315
Saco, MT 59261
(406) 527-3367

DEPARTMENT OF ENVIRONMENTAL QUALITY

Billings: Airport Industrial Park IP-9
1371 Rimtop Dr.
Billlings, MT 59105
(406) 247-4452

Kalispell: 109 Cooperative Way, Suite 105
59901
Ph: (406) 755-8985

Missoula: 301 West Alder
Missoula, MT 59802
(406) 523-4907

Ronan: 1026 Round Butte Rd.
Ronan, MT 59864
(406) 676-3567

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Billings: Region 5
2300 Lake Elmo Drive
Billings, MT 59105
(406) 247-2940

Bozeman: Region 3
1400 South 19th
Bozeman, MT 59718
(406) 994-4042

Glasgow: Region 6
RR 1-4210
Glasgow, MT 59230
(406) 228-3700

Great Falls: Region 4
4600 Giant Springs Road
P.O. Box 6610
Great Falls, MT 59405
(406) 454-5840

Kalispell: Region 1
490 North Meridian
Kalispell, MT 59901
(406) 752-5501

Miles City: Region 7
P.O. Box 1630
Miles City, MT 59301
(406) 232-0900

Missoula: Region 2
3201 Spurgin Road
Missoula, MT 59804
(406) 542-5500

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

OIL AND GAS CONSERVATION DIVISION FIELD OFFICES

Billings: Division Headquarters Office
2535 St. Johns Ave.
Billings, MT 59102
(406) 656-0040

Glendive: 400 Ryan Dr.
Glendive, MT 59330
(406) 377-4325

Plentywood: 32 Lamigra
Plentywood, MT 59254
(406) 765-2574

Roundup: 18 Halfbreed Creek Rd
Roundup, MT 59072
(406) 323-3341

Shelby: Northern District Office
P.O. Box 690
Shelby, MT 59474
(406) 434-2422

TRUST LAND MANAGEMENT FIELD OFFICES

Billings: Southern Land Office
Airport Industrial Park
Billings, MT 59105
(406) 247-4400

Helena: Central Land Office
8001 N Montana Ave.
Helena, MT 59602
(406) 458-3500

Kalispell:
Northwestern Land Office
2250 Highway 93 North
Kalispell, MT 59901
(406) 751-2240

Lewistown:
Northeastern Land Office
USDA Building
613 NE Main St., Suite E
P.O. Box 1021
Lewistown, MT 59457
(406) 538-7789

Miles City:
Eastern Land Office
321 Main St.
P.O. Box 1794
Miles City, MT 59301
(406) 232-2034

Missoula:
Southwestern Land Office
1401 27th Ave.
Missoula, MT 59801
(406) 542-4200

WATER RESOURCES DIVISION REGIONAL OFFICES

Billings:
Airport Industrial Park
1371 Rimtop Dr.
Billings, MT59105
(406) 247-4415

Bozeman:
151 Evergreen Dr., Suite C
Bozeman, MT 59715
(406) 586-3136

Glasgow:
222 6th St. South
P.O. Box 1269
Glasgow, MT 59230
(406) 228-2561

Havre:
210 6th Ave.
P.O. Box 1828
Havre, MT 59501
(406) 265-5516

Helena:
1424 9th Ave.
P.O. Box 201601
Helena, MT 59620
(406) 444-6999

Kalispell:
109 Cooperative Way, Suite 110
Kalispell, MT 59901
(406) 752-2288

Lewistown:
613 NE Main St., Suite E
Lewistown, MT 59457
(406) 538-7459

Missoula:
Town & County Shopping Center
1610 S. 3rd St. West, Suite 103
P.O. Box 5004
Missoula, MT 59806
(406) 721-4284

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Food and Consumer Safety Section

Billings:
Airport Industrial Park IP-9
1371 Rimtop Dr.
Billings, MT 59105
(406) 247-4449

DEPARTMENT OF TRANSPORTATION

DISTRICT OFFICES

Billings:
424 Morey
P.O. Box 20437
Billings, MT 59104-0437
(406) 252-4138

Butte:
3751 Wynne
P.O. Box 3068
Butte, MT 59702-3068
(406) 494-9600

Glendive:

503 North River Ave.
P.O. Box 890
Glendive, MT 59330-0890
(406) 377-5296

Great Falls:

200 Smelter Ave. NE
P.O. Box 1359
Great Falls, MT 59403-1359
(406) 454-5880

Missoula:

2100 W. Broadway
P.O. Box 7039
Missoula, MT 59807-7039
(406) 523-5800

APPENDIX 3: LOCAL PERMITTING AUTHORITIES

CONSERVATION and GRAZING DISTRICTS

Activities that affect stream banks or beds on private land (310 permit)

DISTRICT COURT

Mining right-of-way
Overhead lines

LOCAL GOVERNING BODIES: CITY OR TOWN COUNCILS OR BOARD OF COUNTY COMMISSIONERS

Airport zoning
Building codes
Burning permits
Floodway regulation
Highway excavations
Improvement districts
Lakeshore protection
Large scale mining developments
Mains, water and sewer
Mining claims
Oil and gas leases
Overhead lines
Stream preservation
Subdivision plat approval
Timber removal
Utility extensions
Zoning

LOCAL HEALTH OFFICIALS

Campgrounds
Dairies
Food service establishments
Solid waste disposal facilities
Subdivisions, sanitary restrictions
Tourist campgrounds
Trailer courts

APPENDIX 4: FEDERAL AGENCIES

U.S. DEPARTMENT OF AGRICULTURE

FOREST SERVICE
Northern Region
http://www.fs.fed.us/r1/
200 East Broadway
P.O. Box 7669
Missoula, MT 59807
(406) 329-3511

Activities on Forest Service land
burning permits, grazing leases, mining

U.S. DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS
http://www.nwo.usace.army.mil/html/od-rmt/mthome.htm

Helena: Federal Building
10 West 15th St., Suite 2200
Helena, MT 59626
(406) 441-1375

Billings: 1629 Ave. D
Building A, Suite 3
Billings, MT 59102-3042
(406) 657-5910

Dams and reservoirs
Stream preservation, wetlands

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT
http://www.mt.blm.gov/

Billings: Montana State Office
5001 Southgate Dr.
P.O. Box 36800
Billings, MT 59107
(406) 896-5012

Lewistown: Resource Area or Field Office
Airport Road
P.O. Box 1160
Lewistown, MT 59457
(406) 538-7461

Butte: Resource Area or Field Office
106 N. Parkmont Ave.
P.O. Box 3388
Butte, MT 59701
(406) 533-7600

Miles City: Resource Area or Field Office
111 Garryowen Road
Miles City, MT 59301-0940
(406) 233-2800

Grazing leases
Mine claim recording

FISH AND WILDLIFE SERVICE
http://mountain-prairie.fws.gov/index.html

Federal Building
100 North Park, Suite 320
Helena, MT 59601
(406) 449-5225

Ecological Services
Kalispell Suboffice
780 Creston Hatchery Road
Kalispell, MT 59901
(406) 758-6868

Law Enforcement
2900 4th Ave. N., Room 300
Billings, MT 59101-1266
(406) 247-7355

Management Assistance Office
Mountain-Prairie Region
4052 Bridger Canyon Rd
Bozeman, MT 59715-8433
(406) 585-9010

Captive breeding of raptors

Migratory birds
Threatened and endangered species
Wind energy

U.S. DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
http://www.osha.gov/oshdir/r08.html

2900 4th Ave. N., Suite 303
Billings, MT 59101
(406) 247-7494

Indoor emissions
Occupational noise

U.S. ENVIRONMENTAL PROTECTION AGENCY
http://www.epa.gov/region08/about/index.html#mt

Helena: Region VIII, Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626
(406) 457-5000

Activities on tribal lands
NPDES Permits
Pesticide registration
Underground injection wells

Denver: Regional Office
999 18th St., Suite 500
Denver, CO 80202-2466
(303) 312-6312

Radon information

U.S. FEDERAL ENERGY REGULATORY COMMISSION

Regional Office
101 SW Main St., Suite 905
Portland, Oregon 97204
(503) 552-2710

Hydroelectric sites

APPENDIX 5: TRIBAL GOVERNMENTS

CONFEDERATED SALISH AND KOOTENAI TRIBES
P.O. Box 278
Pablo, MT 59855
(406) 675-2700 ext. 7211

water quality standards on the Flathead Reservation

FORT PECK TRIBES
P.O. Box 1027
Poplar, MT 59255
(406) 768-5155

water quality standards on the Fort Peck Reservation

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